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BULIS, CHELSEA FILER, and
BREAKINGCODESILENCE, INC.**

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California Public Benefit
Corporation,

Plaintiff,

vs.

CHELSEA PAPCIAK aka FILER, an
individual, JENNIFER WALKER, an
individual, JENNA BULIS, an
individual, MARTHA THOMPSON,
an individual, and
BREAKINGCODESILENCE, INC.,
a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**NOTICE OF MOTION AND
MOTION TO DISMISS PURSUANT
TO FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(6) AND
MOTION TO STRIKE PURSUANT
TO FRCP 12(f).**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

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TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September, 2021, or as soon thereafter as the matter may be heard in the above-entitled court, located at 221 West Broadway, San Diego, CA 92101, in Dept. 4B, Defendants, MARTHA THOMPSON, JENNA BULIS, CHELSEA FILER, and BREAKINGCODESILENCE, INC., will move the court to dismiss the action pursuant to FRCP 12(b)(6) because plaintiff's second amended complaint fails to state a claim upon which relief can be granted, on the grounds that it fails to allege sufficient facts to support a cognizable legal theory as to each and every claim made by Plaintiff against Defendants.

Defendants further move this court to strike the second amended complaint on the grounds that it was improperly filed after Defendants had responded without leave of court pursuant to FRCP 12(f).

This motion is made following the parties having met and conferred on July 26, 2021

The motion will be based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, the Declaration of ANDREW STILWELL, JOSH SCARPUZZI, and CHELSEA PAPCIAK filed herewith, the Request for Judicial Notice filled concurrently herewith, as well as the pleadings and papers filed herein.

CONTRERAS LAW FIRM

Date: August 2, 2021

By:

/s/ ANDREW R. STILWELL

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a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT, MARTHA
THOMPSON’S, MOTION TO:**

- 1. DISMISS PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(b)(6); and**
- 2. STRIKE PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 12(f)**

Date: September 13, 2021
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INTRODUCTION

Plaintiff has turned the docket in this case into a complete procedural quagmire. After Defendant, MARTHA THOMPSON, filed her motion to dismiss, Plaintiff filed a second amended complaint (“SAC”) (after two defendants had responded) without a court order in violation of FRCP 12(f) and 15(a). Even though Defendants had been working diligently to try to resolve the motion to dismiss, Plaintiff would still have to file a joint motion to approve any stipulation under Local Rule 15. Defendant, JENNIFER WALKER, filed an objection to the improper SAC. All Defendants have been subsequently trying to meet and confer with Plaintiff’s counsel, however have had little success due to a carousel of counsel trying to come up to speed and re-come up to speed delaying any informal resolution. Defendants have relayed to Plaintiff that they had not cured the issues of standing to bring the action and the improper amended complaint. Plaintiff responded with nothing substantive, then filed a response to the motion to dismiss (after filing the SAC) and defaults against all Defendants in bad faith knowing that all parties were in the middle of the meet and confer process.

The quagmire has created confusion. Is the second amended complaint that Defendant filed the motion to dismiss against the active complaint? Is the SAC the active complaint? Default cannot be entered against an improper SAC that was filed without leave of court, so do Defendants need to do a motion to set aside? Because Defendants have been left with such a mess to attempt to clean up, they now bring this motion to dismiss and strike to attempt to get clarity in the docket and to re-raise the continuing flaws in the complaints. Because the judicially noticeable evidence controverts Plaintiff’s claims, Defendants respectfully ask this Honorable Court that this matter be dismissed without leave to amend.

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1 **STATEMENT OF RELEVANT FACTS**

2 **Background Facts**

3 In September 2020, a group of mutually interested people decided to start a
4 non-profit organization with the mission to raise awareness of institutional child
5 abuse, change legislation related to this issue and assist survivors of troubled teen
6 programs and boarding schools. Defendants, MARTHA THOMPSON
7 (“THOMPSON”), JENNA BULIS (“BULIS”), and CHELSEA PAPCIAK
8 (“PAPCIAK”) were part of the original group. They had all been survivor’s
9 themselves and each had their own gifts they brought to the project. All were
10 volunteers, and working towards making the organization viable to support its
11 mission. Prior to 2020 several of these individuals had been very active in the
12 survivor community, including merchandizing, writing blogs, building websites,
13 participating in legislative efforts, hosting support groups on social media to connect
14 with others in the survivor community. Two people who were leaders in this
15 community were BULIS and PAPCIAK.

16 Another survivor named JOSHUA SCARPUZZI (“Josh”) had also been active
17 in the survivor community through a different organization known as TTI, and had
18 been writing a collection of poetry that was entitled “The Thoughts of a Caged Bird.”
19 Josh’s leadership led to speaking engagements between 2010 and 2018. However,
20 Josh never used to term or trademark BREAKING CODE SILENCE or BCS during
21 that time. [*Decl. Scarpuzzi, p. 2*].

22 In 2014, PAPCIAK created the name BREAKING CODE SILENCE, and had
23 been using that name in her role within the survivor community both in commerce
24 through merchandizing and in her contributions to advocacy in the cause against
25 institutional abuse and in commerce through merchandizing. [*Decl. Papciak, p. 3*].
26 THOMPSON was the de facto CFO, and the organization was to be named
27 BREAKING CODE SILENCE.

1 In September 2020, six of the partners submitted a trademark application for
2 BRAKINGCODESILENCE and BREAKING CODE SILENCE to the United States
3 Patent and Trademark Office (“USPTO”). The six partners will be referred to as the
4 “Joint Owners.” PACIAK and BULIS were part of the six-member Joint Owners
5 group. [*RJN, Ex. A*].

6 In March of 2021, one of the Joint-Owners, KATHERINE McNAMARA
7 (“McNAMARA”) individually incorporated a corporation in California named
8 BREAKING CODE SILENCE (“Plaintiff”). [*RJN, Ex. B*]. McNAMARA did not
9 let all the Joint Owners to be part of the corporation. When the excluded Joint-
10 Owners discovered that McNAMARA had filed for a corporation without them, they
11 voiced their objection, and McNAMARA shut them all out of everything, and
12 declared herself the CEO of BREAKING CODE SILENCE demanding all of the
13 material for the organization to be turned over to her. The material demanded
14 included a privately owned Facebook group that is owned and managed by
15 Defendant, JENNIFER WALKER (“WALKER”), who also was part of the Joint
16 Owners. WALKER also owns the rights to the G-Suite account that hosted the
17 fledgling organization’s email accounts. As mentioned earlier, PAPCIAK had been
18 selling BREAKING CODE SILENCE merchandise for several years before the
19 group decided to attempt an organization, and had created websites to sell that
20 merchandise, including originally designed logos that PAPCIAK had made.
21 McNAMARA demanded that as well, despite neither she nor Plaintiff had any right
22 or ownership in any of these pages or accounts.

23 Then in May 2021, McNAMARA, through Plaintiff, filed an application with
24 the USPTO for the trademarks of BRAKINGCODESILENCE and BREAKING
25 CODE SILENCE. That same month, McNAMARA, through Plaintiff, filed the
26 instant lawsuit claiming trademark infringement, unfair business practices and
27 competition, conversion, false light, and intentional interference with economic
28

relationships and opportunities. [*Dkt. No. 1*].

Procedural History

On May 13, 2021, Plaintiff filed the original complaint, however the caption was flawed. [*Dkt. No. 1*]. On May 17, 2021, Plaintiff filed the first amended complaint (“FAC”) to correct their original error. [*Dkt. No. 5*]. Defendants, THOMPSON, BULIS, and BREAKINGCODESILENCE, INC. are residents outside of California, hired counsel on June 7, 2021. [*Decl. Stilwell, p. 2*]. Due to the fact that there was only three days to respond to the FAC, Defendants’ counsel attempted to meet and confer with Plaintiff’s counsel in order to get an extension of time long enough to satisfy Local Rule 4(A)’s requirement to have a good faith meet and confer prior to filing any motions to dismiss. [*Decl. Stilwell, p. 3*]. Plaintiff and its counsel refused to give an appropriate extension, and THOMPSON was forced to file a motion to dismiss pursuant to FRCP 12(b)(6) on June 11, 2021 without meet and confer. [*Dkt. No. 15*]. WALKER filed an answer on June 14, 2021.

After THOMPSON filed her motion to dismiss, Plaintiff’s counsel finally began to meet and confer. During the meet and confer process, it was agreed by all parties that a second amended complaint (“SAC”) should be filed to attempt to cure the defects, including the elimination of the false light claim that was completely barred as a matter of law. Defendants’ counsel agreed, and asked Plaintiff’s counsel to send them the draft joint motion and stipulation pursuant to Local Rule 15. [*Decl. Stilwell, p. 3*].

Completely ignoring this Court’s chamber rules, Plaintiff unilaterally decided to file the SAC on June 23, 2021 without first getting leave from this Court. [*Dkt. No. 19*]. WALKER objected to the errant filing on July 9, 2021. [*Dkt. Nos. 23, 24*]. The other Defendants’ counsel began attempting to meet and confer with Plaintiff’s counsel to clear the procedural issue. Plaintiff’s counsel began to add other lawyers [Dkt. No. 21], who then came on acting as if they were not aware of the case, despite

1 the fact that her name was on the caption to the complaint, FAC, and SAC, as well
2 as had asked to be part of all of the correspondence.

3 After Defendants' counsel repeatedly attempting to convey the issues to
4 Plaintiff's counsel, Plaintiff filed a response to the motion to dismiss the FAC [*Dkt.*
5 *No. 26*] despite the fact that the SAC made the FAC nonexistent and requests for
6 entry of default against all Defendants on July 12, 2021. [*Dkt. Nos. 27-31*].
7 WALKER again objected to the entry of default on July 13, 2021. [*Dkt. No. 32*].

8 Thankfully, the Court cleared out all of the errant filings, and we are timely
9 responding to the SAC herein.

10 LAW AND ARGUMENT

11 I.

12 MOTION TO STRIKE

13 A. The SAC Was Improperly Filed

14 Pursuant to Fed. Rule of Civ. Proc. 15, subd. (a), once a party has answered to
15 a complaint, and amended complaint cannot be filed except with a stipulation of the
16 parties or leave of court. [*FRCP 15, subd. (a)*]. Local Rule 15 states that any
17 stipulation by the parties has to be submitted as a joint motion and receive an order
18 from the court prior to the stipulation being valid. [*L.R. 15*]. Plaintiff ignored all of
19 these rules when it filed the SAC. Plaintiff had not filed a joint motion, despite being
20 reminded of it by Defendants' counsel. It was improper to file the SAC without
21 permission of this court and it should therefore be stricken. [*FRCP 12, subd. (f); 15,*
22 *subd. (a)(2); United States ex rel. Mathews v. HeathSouth Corp.*, 332 F.3d 293, 295-
23 296 (5th Cir. 2003)].

24 B. The SAC Negates the FAC

25 An amended complaint supersedes a previous complaint, and except for the
26 sham pleading doctrine completely destroys the prior pleading. [*Valdadez-Lopez v.*
27 *Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011)]. An amended complaint also moots a
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1 motion to dismiss. [*Ibid.*]. Thus, by filing the SAC, Plaintiff has destroyed the FAC
2 and mooted the motion to dismiss. How can she now file a response to the motion
3 to dismiss? It is improper and should be stricken. [*FRCP 12, subd. (f)*; Weintraub
4 v. Law Officer of Patenaude & Felix, A.P.C., 299 FRD 661, 664 (SD CA 2014)].

5 **C. The Motion to Dismiss Stays any Default Being Taken**

6 It appears from the docket that Plaintiff is acquiescing to Defendant's
7 arguments that the SAC was improperly filed and is not operative. However, a notice
8 of errata or some withdrawal of the SAC would have been appropriate and helpful to
9 avoid all of this confusion. If that is the case however, Plaintiff is speaking out of
10 both sides of their mouth. If its FAC is the operative complaint, then the original
11 motion to dismiss is not moot, and stays all defaults. [Doe v. Unocal Corp. (CD CA
12 1998) 27 F.Supp.2d 1174, 1180, aff'd (9th Cir. 2001) 248 F3d 915, 920 (abrogation
13 on other grounds recognized by Williams v. Yamaha Motor Co. Ltd. (9th Cir. 2017)
14 851 F3d 1015, 1024)]. Therefore, Plaintiff cannot take default against Defendants,
15 and the requests should be stricken. [*FRCP 12, subd. (f)*; Nishimatsu Const. Co.,
16 Ltd. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975)]. Further, with all
17 of the procedural confusion that Plaintiff is created, this Court would be well within
18 its discretion to excuse nonresponse. [Edelman v. Belco Title & Escrow, LLC, 754
19 F.3d 389, 395 (7th Cir. 2014)].

20 **II.**

21 **MOTION TO DISMISS**

22 Assuming that the FAC is still the operative complaint, Defendants,
23 THOMPSON, PAPCIAK, BULIS, and BREAKINGCODE SILENCE, INC.
24 (hereafter jointly "Defendants") reassert the objections to the FAC as follows:

25 ///

26 ///

27 ///

A. Plaintiff's Claims Against Defendants Are Not Plausible Under *Twombly/Iqbal*

To determine whether a pleading adequately states a plausible claim for relief, a court must first take “note of the elements a plaintiff must plead to state a claim.” Ashcroft v. Iqbal, 556 U.S. 662, 675, 129 S.Ct. 1937, 1947 (2009). To establish a “plausible” claim, the complaint must contain “more than labels and conclusions” or “formulaic recitations of the elements of a cause of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1965 (2007). The *Twombly/Iqbal* standard requires a complaint to contain sufficient factual allegations to show a “plausible” claim for relief. Bissessur v. Indiana Univ. Bd. of Trustees, 581 F.3d 599, 603 (7th Cir. 2009).

Plaintiff only alleges anything against THOMPSON in five of the 105 total paragraphs of the complaint, even though THOMPSON is included in the headings for 8 of the 9 claims alleged therein. Further, one of the allegations is that THOMPSON is a resident of Texas, which has not substantive value to the claims beyond jurisdiction. *Dkt. No. 5, p. 3.*

Paragraph 24 alleges that THOMPSON was “involved with BCS from 2019 through early 2021,” and separated from BCS “in or around February or March 2021.” *Dkt. No. 5, p. 6.* Paragraph 32 alleges that THOMPSON changed her G-Suite password and Plaintiff cannot gain access. *Dkt. No. 5, p. 7.* Paragraph 43 alleges that Plaintiff sent THOMPSON a demand letter. *Dkt. No. 5, p. 8.* Lastly, paragraph 67 alleges that a judicial determination is necessary regarding the trademarks and THOMPSON’s ownership or abandonment of them. *Dkt. No. 1, p. 12.*

Regarding the remaining Defendants, the registered trademark owners, PAPCIAK and BULIS could not possibly infringe upon their own trademark. The USPTO’s judicially noticeable records show that BULIS and PAPCIAK are original owners, and therefore nothing within the SAC can dispute that and a motion to

dismiss is proper.

**1. Plaintiff Has Not Pled a Claim for Trademark Infringement
Against DEFENDANTS**

To resolve whether Plaintiff has a claim for trademark infringement for Defendants' alleged use of "BREAKING CODE SILENCE" or "BREAKINGCODESILENCE," Plaintiff must first show whether Plaintiff has a valid, protectable trademark interest in the marks. Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp., 174 F.3d 1036, 1046-1047 (9th Cir. 1999). Registration of the mark on the Principal Register in the Patent and Trademark Office constitutes prima facie evidence of the validity of the registered mark and of the owner's exclusive right to use the mark on the goods and services specified in the registration. See 15 U.S.C. §§ 1057(b); 1115(a).

According to the USPTO's registry (known as "TESS"), the marks were originally registered under the original Joint-Owners in September 2020, which includes PAPCIAK and BULIS. [See *Decl. Stilwell*, pp. 3-4, and *RJN*, Ex. A]. Further, according to the California Secretary of State's registry, Plaintiff was not in existence at that time, having been incorporated in March of 2021. [See *Decl. Stilwell*, pp. 4-5, and *RJN*, Ex. B]. Plaintiff cannot be allege infringement on a mark that it does not own, nor can Plaintiff allege ownership when it was not in existence when the mark was originally registered by the six partners.

Plaintiff has alleged that the mark was abandoned by the Joint Owners (*Dkt. 5, Compl.*, p. 12, ¶ 67), however the TESS registry does not indicate that the six partners abandoned their trademark application. Plaintiff also tries to allege that the marks were "assigned" (*Dkt. 5, Compl.*, p. 12, ¶ 67), however this is a conclusory remark, not a factual allegation. [See *Twombly*, *supra*, 550 U.S. at p. 555, 127 S.Ct. at p. 1965]. Further, Plaintiff is asserting that Josh (who is not a part of Plaintiff) is the source of the first use in commerce claim to the mark in 2010, which Josh has

1 publicly refuted. [*Decl. Scarpuzzi*, p. 2]. Plaintiff provides no allegations as to how
2 it was assigned, when it was assigned, and whether all six owners had assigned the
3 mark to Plaintiff. In fact, according to the USPTO, the six Joint Owners still own the
4 mark. [*RJN*, Ex. A]. This judicially noticeable evidence controverts Plaintiff's claims
5 on the face of the complaint, and her lack of factual allegations to support the
6 conclusory remarks leaves this claim "unplausible" under the *Iqbal/Twombly*
7 standard.

8 **2. Plaintiff Has Not Pled A Claim for Unfair Competition Against**
9 **Defendants**

10 To establish a trademark infringement claim under section 32 of the Lanham
11 Act or an unfair competition claim under section 43(a) of the Lanham Act, Plaintiff
12 must establish that any of the Defendants are using a mark confusingly similar to a
13 valid, protectable trademark of *Brookfield's*. [*Brookfield Commc'ns, Inc. v. W. Coast*
14 *Ent. Corp.*, 174 F.3d 1036, 1046 (9th Cir. 1999)]. Plaintiff has made no allegations
15 that THOMPSON has used the marks at all. The only allegation is that THOMPSON
16 changed her G-Suite password, which is not owned by Plaintiff. *Dkt. No. 5*, p. 7.
17 There are no other factual allegations of any actions taken by THOMPSON¹.

18 Additionally, the facts alleged against PAPCIAK and BULIS are for things
19 they already did prior to Plaintiff's existence and pursuant to their joint-ownership.
20 Plaintiff has not alleged that it actually owns the marks, and the judicially noticeable
21 evidence states that the Joint Owners actually own it. Therefore, Plaintiff cannot
22 allege infringement of what it does not own.

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24
25 ¹ Further, the exhibits that Plaintiff filed with its complaint only mention
26 THOMPSON once. [*See Dkt. 5-1, Compl., Ex. A*]. However, that is only
27 THOMPSON's name (without any mention of BREAKING CODE SILENCE) on
28 the side bar entitled "People also viewed" attached to CHELSEA FILER's *Linked In*
page. [*Dkt. 5-1, Compl., Ex. A*, p. 2]. It's not even THOMPSON's page. There is
no allegation whatsoever that THOMPSON ever used the mark at all.

1 **3. Plaintiff Has Not Pled A Claim for Injunctive Relief Against**
2 **Defendants**

3 “A plaintiff is entitled to a preliminary injunction in a trademark case when he
4 demonstrates either (1) a combination of probable success on the merits and the
5 possibility of irreparable injury or (2) the existence of serious questions going to the
6 merits and that the balance of hardships tips sharply in his favor.” [Brookfield
7 Commc'ns, Inc. v. W. Coast Ent. Corp., 174 F.3d 1036, 1046 (9th Cir. 1999)].

8 From the face of the complaint and from the judicially noticeable evidence
9 before this Court, Plaintiff cannot show either of the above elements. Plaintiff has
10 not pled any allegations against Defendants indicating trademark infringement.
11 According to the USPTO, Plaintiff is not an owner of the marks. Lastly, Plaintiff has
12 not shown any hardship from any act that Defendants have allegedly taken, especially
13 since Plaintiff has not alleged that THOMPSON has taken any action towards
14 Plaintiff or its alleged rights.

15 **4. Plaintiff Has Not Pled A Claim for Declaratory Relief Against**
16 **Defendants**

17 The Declaratory Judgment Act provides that, “[i]n a case of actual controversy
18 within its jurisdiction ... any court of the United States ... may declare the rights and
19 other legal relations of any interested party seeking such declaration, whether or not
20 further relief is or could be sought.” [28 U.S.C. § 2201(a); MedImmune, Inc. v.
21 Genentech, Inc., 549 U.S. 118, 126, 127 S. Ct. 764, 770–71, 166 L. Ed. 2d 604
22 (2007)].

23 Plaintiff’s complaint alleges only that “a controversy exists” (*Dkt. 5, Compl.*
24 *p. 11, ¶ 66*), however never allege what the controversy is, or how there is a
25 controversy between Plaintiff and Defendants. Plaintiff goes on to allege only that
26 “Defendants deny all of Plaintiff’s contentions,” as its basis for an actual controversy.
27 However, the controversy does not exist. The USPTO clearly states that Plaintiff is
28

1 not an owner of the marks that Plaintiff is alleging Defendants infringed upon.
2 Therefore, there is no controversy about who owns the marks. Additionally, Plaintiff
3 cannot claim that it used the marks first in commerce since it did not exist at the time
4 that the six partners registered the trademark with the USPTO. [See 15 U.S.C. §§
5 1057(b); 1115(a); Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp., 174 F.3d 1036,
6 1046-1047 (9th Cir. 1999) (presumption of ownership created by the USPTO registry
7 can only be overcome by a showing of first use, however Plaintiff did not exist
8 then.)].

9 Therefore, Plaintiff has failed to allege an actual controversy, and any implied
10 controversy that Plaintiff has attempted to make through bare conclusory remarks (in
11 violation of the *Iqbol/Twombly* standard) is clearly resolved by the USPTO registry.
12 A declaratory judgment claim has therefore failed to be alleged, and is ripe for
13 dismissal. [FRCP, 12(b)(6)].

14 **5. Plaintiff Has Not Pled A Claim for Violation of California**
15 ***Business & Professions Code § 17200 Against Defendants***

16 California's statutory Unfair Competition Law (UCL, Bus. & Prof. Code §
17 17200 et seq.) prohibits, and provides civil remedies for, “unfair competition,”
18 defined as “any unlawful, unfair or fraudulent business act or practice.” [Bank of the
19 West v. Sup.Ct. (Industrial Indem. Co.), 2 Cal.4th 1254, 1266-1267 (1992)].

20 Plaintiff has failed to allege any “unlawful, unfair, or fraudulent business act
21 or practice” by Defendants. Again, the only allegation is that she changed her G-
22 Suite password. [Dkt. No. 5, Compl., p. 7, ¶ 32]. Further, any usage of the marks by
23 Defendants alleged within the complaint would not be “unlawful,” because Plaintiff
24 is not one of the Joint Owners of the marks. [See Decl. Stilwell, p. 2-3, and RJN, Ex.
25 B]. Also, Plaintiff has not alleged any fraudulent business act or practice, and any
26 allegations that imply such are inappropriate because fraud has to be pled with
27 specificity. [FRCP, 9(b)]. Therefore, a claim under the UCL has not been alleged
28

1 against Defendants, and is ripe for dismissal. [*FRCP*, 12(b)(6)].

2 **6. Plaintiff Has Not Pled A Claim for Conversion Against**
3 **Defendants**

4 Conversion is the wrongful exercise of dominion over the personal property of
5 another. [*Mendoza v. Rast Produce Co., Inc.*, 140 Cal.App.4th 1395, 1403-1404
6 (2006)]. The elements for a claim of conversion are: “(1) the plaintiff’s ownership or
7 right to possession of the property; (2) the defendant’s conversion by a wrongful act
8 or disposition of property right; and (3) damages.” [*IIG Wireless, Inc. v. Yi*, 22
9 Cal.App.5th 630, 650 (2018)].

10 The only actual thing that Plaintiff has alleged THOMPSON did was change
11 the password to her G-Suite account. Plaintiff has not alleged that Plaintiff is the
12 rightful owner of the G-Suite account, nor has Plaintiff alleged how THOMPSON’s
13 changing of the password has interfered with Plaintiff’s rights to the G-Suite account.
14 If Plaintiff was the owner of the account, it could just contact Google and have the
15 passwords overridden or changed and THOMPSON locked out. The same is true of
16 the Facebook group and any other social media platform. The fact that Plaintiff has
17 been unable to do so, and has failed to allege ownership is an admission by
18 implication that Plaintiff is not the owner of the accounts in question and therefore
19 does not have standing to bring an action for conversion. *Ibid*.

20 **7. Plaintiff Has Not Pled a Claim for False Light Against**
21 **Defendants**

22 False light claims may be maintained only by individuals. False light
23 implicates an invasion of privacy, which at common law in California is a right
24 reserved exclusively for actual persons, since, as commonly understood, a
25 corporation is not susceptible to the injured feelings associated with invasion of
26 privacy torts. [*Holomaxx Technologies v. Microsoft Corp.*, 783 F. Supp. 2d 1097,
27 1107 (N.D. Cal. 2011) (applying California law)].

By its own admission, Plaintiff is a California corporation. [*Dkt. 5, Compl., p. 2, ¶ 5, see Decl. Stilwell, p. 4-5, and RJN, Ex. B*]. Therefore, Plaintiff has no right to bring an action for false light. [*Holomaxx Technologies, supra*, 783 F. Supp. 2d at p. 1107].

8. Plaintiff Has Not Pled a Claim for Intentional Interference with Prospective Economic Advantage Against Defendants

The elements of a claim for intentional interference with prospective economic relations are: (1) an existing economic relationship between plaintiff and a third party, with the probability of future economic benefit to plaintiff; (2) defendant's knowledge of the relationship; (3) intentional acts on the part of defendant designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm to plaintiff proximately caused by defendant's acts. [*Roy Allan Slurry Seal, Inc. v. American Asphalt South, Inc.*, 2 Cal.5th 505, 512 (2017)].

Plaintiff has made only conclusory statements that “Defendants have maliciously and wrongfully obstructed and interfered with BCS’s business relationships with its customers by passing themselves off as BCS and making false statements about BCS.” [*Dkt. 5, Compl., p. 16-17, ¶ 102*]. Plaintiff has not alleged any existing economic relationship at all, nor the probability of future economic benefit. Further, Plaintiff has not identified any actions that Defendants has made to interfere with these mysterious relationships. Also, Plaintiff has not identified how those mysterious relationships have been injured, or how Plaintiff has been actually injured. Lastly, Plaintiff has made no causal connection between anything THOMPSON has allegedly done (only changing her password to her G-Suite) has proximately caused harm.

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B. If the SAC is Operative, Then Plaintiffs Have No Standing To Bring This Action

Only those who one or have rights to the trademark may assert claims based on infringement of the trademark. [15 U.S.C.A. § 1114]. Additionally, where a trademark is nonexclusive, or owned by multiple users, neither of the multiple users has standing to bring an action for infringement. [Wilson v. RSM Management, Inc., 187 F.3d 651, 651 (9th Cir. 1999); Upper Deck Company v. Panini America, Inc. 2021 WL 1388630, at p. 4 (SD CA 2021)]. The USPTO’s registry provides presumptive proof that Plaintiff did not register the trademark first, and cannot therefore use registry as its basis for standing. [*RJN, Ex. A*]. That leaves only first-in-time usage in commerce. [15 U.S.C.A. § 1114; Halicki Films, LLC v. Sanderson Sales and Marketing, 547 F.3d 1213, 1226 (9th Cir. 2008)]. Plaintiff claims “derivative” rights because its claim is that Josh assigned it over to Plaintiff. However, Josh has posted publicly, that he never used BREAKING CODE SILENCE nor BCS in 2010 nor at all prior to 2018. [*Decl. Scarpuzzi, p. 2*]. These judicially noticeable facts from the person who is alleged to have assigned rights negates Plaintiff’s claim. [Threshold Enterprises Ltd. v. Pressed Juicery, Inc., 445 F.Supp.3d 139, 145 (ND CA 2020)]. Therefore, Plaintiff has no argument for standing at all.

C. Leave to Amend Should Not Be Granted

Despite the Court’s policies on liberal amendment, where it is clear that amendment cannot be cured by amendment, leave to amend should not be granted. Lucas v. Department of Corrections, 66 F.3d 245, 248 (9th Cir. 1995). Plaintiff’s claims for trademark infringement, unfair competition, and injunctive relief under the Latham Act should be dismissed without leave to amend because Defendants’ judicially noticeable evidence that the USPTO shows that Plaintiff is not an owner of the marks negates Plaintiff’s trademark claims in totality. The only exception to

1 the presumption of earlier use in the marketplace, however, the USPTO's registry
2 pre-dates Plaintiff's existence, so there is no way that Plaintiff could overcome the
3 presumption that the USPTO's registration creates. See 15 U.S.C. §§ 1057(b);
4 1115(a); Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp., 174 F.3d 1036, 1046-
5 1047 (9th Cir. 1999).

6 Similarly, Plaintiff's claims of a violation of California Business &
7 Professions Code § 17200, declaratory judgment, and conversion should be
8 dismissed without leave to amend because Plaintiff's claim is based on the trademark
9 infringement claim, which is fully negated, and no amendment could cure the claim.
10 Plaintiff's claim for false light fails completely because Plaintiff is a corporation and
11 therefore does not have any standing to bring a claim for false light. There is nothing
12 that will change the fact that Plaintiff is a corporation, and therefore an amendment
13 would be useless.

14 Lastly, Plaintiff's claim of intentional interference with prospective economic
15 advantage should not be allowed an amendment because Plaintiff cannot allege that
16 it is the owner of any rights to any of the social media platforms or trademark rights
17 that would give it claim to the wrongful usage of the platforms. Further, Plaintiff
18 cannot, and has not, asserted any claims to ownership of the social media platform
19 rights, which are the only allegations made against Defendants.

20 CONCLUSION

21 THEREFORE, Defendants respectfully asks this honorable Court to grant her
22 motion to dismiss the complaint without leave to amend as it relates to claims against
23 her.

24 **CONTRERAS LAW FIRM**
25 /s/ ANDREW R. STILWELL

26 Date: August 2, 2021

27 By:

28 Andrew Stilwell, Esq.
Attorneys for MARTHA THOMPSON,
JENNA BULIS, CHELSEA PAPCIAK,

and BREAKINGCODESILENCE, INC.

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**MARTHA THOMPSON, JENNA
BULIS, CHELSEA PAPCIAK, and
BREAKINGCODESILENCE, INC.**

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California Public Benefit
Corporation,

Plaintiff,

vs.

CHELSEA PAPCIAK aka FILER, an
individual, JENNIFER WALKER, an
individual, JENNA BULIS, an
individual, MARTHA THOMPSON,
an individual, and
BREAKINGCODESILENCE, INC.,
a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**DECLARATION OF ANDREW
STILWELL IN SUPPORT OF
DEFENDANT, MARTHA
THOMPSON'S, MOTION TO
DISMISS PURSUANT TO FRCP
12(b)(6) AND MOTION TO STRIKE
PURSUANT TO FRCP 12(f)**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

1 I, ANDREW R. STILWELL, hereby declares the following:

2 1. I am an attorney licensed in the State of California and in the United
3 States District Court for the Southern District of California. I am employed by
4 Contreras Law Firm, who has been retained by MARTHA THOMPSON
5 (“THOMPSON”), JENNA BULIS (“BULIS”), CHELSEA PAPCIAK
6 (“PAPCIAK”), and BREAKINGCODESILENCE, INC. (“FLORIDA CORP.”) to
7 represent them in the above-captioned action. The following items I declare as a
8 matter of my personal knowledge, and if called to testify I would do so in the same
9 manner.

10 **Declaration Regarding Meet and Confer Prior to Filing the Motion**

11 2. My firm was retained by the Defendants on June 8, 2021 after an
12 extensive search of attorney’s to represent her, despite her residence being in Texas.
13 I immediately reached out to opposing counsel to request an extension of time to
14 respond to the complaint, which was due three days later on June 11, 2021. I sought
15 the extension to give me an opportunity to review the file and the allegations of the
16 complaint, and to give me the opportunity to meet and confer with opposing counsel
17 pursuant to Local Rule and this Court’s standing order 4A.

18 3. Opposing counsel did not immediately respond, and then only granted
19 three days extension claiming she did not have the authority to grant the extension I
20 had asked for. This was not true, for several reasons: (1) California Code of Civil
21 Procedure § 283 states that an attorney “shall have the authority to bind her client in
22 any of the steps of an action or proceeding by his agreement filed with the Clerk;”
23 (2) the California Rules of Professional Conduct, as codified in the State Bar Act as
24 California Business & Professions Code, specifically Rule 1.2(a) states that attorneys
25 have authority to made decisions within the bounds of “procedural matters;” (3) the
26 California Supreme Court has also stated that attorneys have such authority in Linsk
27 v. Linsk, 70 Cal.2d 272, 277 (1969). An extension of time is a procedural matter.

Ibid.

4. Further, Local Rule 2.1(a)(3)(d) clearly states that attorneys are not to arbitrarily or unreasonably withhold consent to a reasonable request for cooperation or accommodation. I was hired three days before THOMPSON's response date, and I had asked for two weeks of time to review the case and to meet and confer within the 7 days as required by Local Rule and this Court's standing order 4A. This was not an unreasonable request. However, opposing counsel hid behind her client's authority, which was not required to grant the extension, to delay until the deadline to respond to force THOMPSON into a prejudicial position.

5. It is because of this unprofessional conduct by both opposing counsel and Plaintiff, BREAKING CODE SILENCE, that I was unable to meet and confer with opposing counsel until June 10, 2021, whereby I stated that the complaint was subject to a motion to dismiss pursuant to FRCP 12(b)(6) because of the lack of allegations of towards THOMPSON. The email was responded to only with a response that opposing counsel was "signing off for the night."

6. I asked the Court to relieve me of my obligation to meet and confer 7 days prior to filing this motion, as it is required to be filed on June 11, 2021, and I had been unable to get an extension of time to have that meeting.

7. After I filed the first motion to dismiss, Plaintiff's counsel finally had a meet and confer meeting with me. We discussed the issues and agreed that another amended complaint would be the most efficient route. I asked Plaintiff's counsel to send me a copy of the stipulation pursuant to this Court's chamber rules.

8. Instead of circulating the stipulation and joint motion, Plaintiff's counsel errantly file the amended complaint without the joint motion and stipulation as required by this Court' rule.

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Declaration of Fact Relevant to the Motion

9. On June 7, 2021, while doing my due diligence into accepting retention of THOMAS as a client, I went to the USPTO website, specifically the TESS registry database, and searched the marks alleged to have been violated in the complaint: BREAKING CODE SILENCE and BREAKINGCODESILENCE.

10. I discovered that on September 3, 2020, BREAKINGCODESILENCE was registered on the USPTO TESS registry to JEN ROBINSON, KATHERINE McNAMARA, JENNA BULIS, CHELSEA PAPCIAK, REBECCA MOORMAN, and EMILY CARTER. These will jointly be referred to as the “Joint Owners.” See *RJN, Ex. A*.

11. I also discovered that on September 24, 2020, BREAKING CODE SILENCE was registered on the USPTO TESS registry to the Joint Owners. *Ibid*.

12. Nowhere on the registry did BREAKING CODE SILENCE show up on the registrations.

13. Further, the registry stated that BREAKING CODE SILENCE was first used on April 1, 2013, and first used in commerce on June 1, 2019. BREAKINGCODESILENCE was first used on March 12, 2013, and first used in commerce on January 1, 2019.

14. BREAKINGCODESILENCE was used for “Activism and advocacy group of troubled teen program survivors ... providing education on boarding schools and teen programs.”

15. BREAKING CODE SILENCE was used for “Promoting the interests of troubled teens by means of public advocacy.”

16. Neither of the marks show as abandoned.

17. Subsequently, I found a registry for BREAKING CODE SILENCE filed by “Breaking Code Silence, Inc.” on May 5, 2021, stating the mark was to be used for “Providing services aimed at aimed at preventing institutional child abuse and

1 empowering adult survivors to engage in positive self-advocacy; services to promote
2 the interests of trouble teens by means of public advocacy.” This registry stated that
3 BREAKING CODE SILENCE was first used on December 11, 2019, and first used
4 in commerce on that same day.

5 18. I also found a registry for BREAKING CODE SILENCE filed by
6 “Breaking Code Silence, Inc.” on May 6, 2021, stating the mark was to be used for
7 “On-line articles, stories, blogs and speaking engagements aimed at preventing
8 institutional child abuse and empowering adult survivors to engage in positive self-
9 advocacy.” This registry stated that BREAKING CODE SILENCE was first used
10 on October 18, 2018, and first used in commerce on that same day.

11 19. On January 9, 2021, I went to the California Secretary of State’s website
12 and activated its “business search portal,” and looked up “Breaking Code Silence” in
13 the corporations directory. There I found one entity named “Breaking Code Silence.”
14 It was registered on March 22, 2021, as filing number 4721336. *See RJN, Ex. B.*

15 20. According to its articles of incorporation, the name for Plaintiff,
16 BREAKING CODE SILENCE, is “Breaking Code Silence,” not “Breaking Code
17 Silence, Inc.,” which is the entity who registered the marks in the USPTO in May
18 2021. *Ibid., see also RJN, Ex. A.*

19 21. The legal name for Plaintiff as “Breaking Code Silence” (without the
20 “Inc.”) is confirmed in its statement of information that it filed on May 1, 2021, with
21 the Secretary of State. *See RJN, Ex. B.*

22 **CONTRERAS LAW FIRM**

23
24 Date: August 2, 2021

By: /s/ ANDREW R. STILWELL

Andrew Stilwell, Declarant

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**MARTHA THOMPSON, JENNA
BULIS, CHELSEA PAPCIAK, and
BREAKINGCODESILENCE, INC.**

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California Public Benefit
Corporation,

Plaintiff,

vs.

CHELSEA PAPCIAK aka FILER, an
individual, JENNIFER WALKER, an
individual, JENNA BULIS, an
individual, MARTHA THOMPSON,
an individual, and
BREAKINGCODESILENCE, INC.,
a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**DECLARATION OF CHELSEA
PAPCIAK IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS PURSUANT TO FRCP
12(b)(6) AND MOTION TO STRIKE
PURSUANT TO FRCP 12(f)**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

I, CHELSEA PAPCIAK, hereby declares the following:

1 1. I am a defendant in the above-entitled matter. I have personal
2 knowledge of the matters I have declared herein, and do hereby submit this
3 declaration in support of the motion to strike and motion to dismiss filed by the
4 Defendants herein. If called to testify I would do so in the same manner.

5 **Declaration Regarding Meet and Confer Prior to Filing the Motion**

6 2. I am a survivor of institutional child abuse within the “Troubled Teen”
7 Industry, and as a youth advocate, I have a long history of involvement with the
8 survivor community since 2004. I have dedicated my life’s work over the last two
9 decades to the mission of saving future generations from institutional child abuse.

10 3. As part of my advocacy, I have created several informational websites
11 to raise awareness and elevate the voices of the survivors who experienced abuse
12 within these programs. I have focused heavily on writing and lobbying for both state
13 and federal legislation that would aim to reform this troublesome industry. I have
14 created the largest and most active Facebook support group dedicated to the survivors
15 of WWASP Programs and routinely participate in social media postings in electronic
16 message boards to support ongoing advocacy efforts. I have been posting steadily on
17 Facebook since 2012 and have contributed to online databases, forums, books and
18 studies in reference to the “Troubled Teen” Industry. I have given presentations,
19 speaking engagements, media interviews and participated in the production of
20 documentaries on this subject. I have most recently planned and presented in the
21 educational webinar series hosted by the American Bar Association: Far from Home
22 Far from Safe - A Troubled Industry.

23 4. On August 19, 2014 I published the first #breakingcodesilence
24 challenge on WWASPSurvivors.com/breakingcodesilence, a website/ domain that I
25 solely own. A true and correct copy of the webpage where I first published the
26 campaign in 2014 is attached hereto as **Exhibit A**, and incorporated fully herein by
27 this reference.

28 ///

1 5. The campaign was a coalition effort between my organization WWASP
2 Survivors and other survivor advocacy groups such as Survivors of Institutional
3 Abuse Organization, and Safe Teen Schools. In 2015 the #breakingcodesilence
4 campaign was used notably by SIA (an organization that I volunteered for) in several
5 conferences, events and was featured in E! Network's original production Dash Dolls,
6 with survivor Caroline Burt. In 2016-2017 #breakingcodesilence was utilized to
7 raise awareness and garner support for the Protect Youth from Institutional Abuse
8 campaign with SIA and the LA LGBT Center to pass the Community Care Facilities
9 Act in CA as well as the re-introduction of the federal legislation Stop Child Abuse
10 in Residential Programs for Teens Act of 2017

11 6. I have continuously utilized the name BREAKING CODE SILENCE in
12 commerce since 2014, and continue to do so presently. In 2014 I created custom
13 made bracelets inscribed with the mark #breakingcodesilence and
14 WWASPSurvivors.com. I sold this merchandise and gave them away to raise
15 donations at several events throughout the years. I also passed them out to the
16 survivors that attended the Breaking Code Silence Rally in October 2020. A true and
17 correct copy of the bracelets and their dissemination in commerce is attached hereto
18 as **Exhibit B** and incorporated fully herein by this reference.

19 7. As a graphic artist, I made several custom made logos, T-shirt designs
20 and marketing materials for Breaking Code Silence. We got a great response from
21 the community, and we began to sell the merchandise on
22 <https://www.teepublic.com/user/breaking-code-silence-official> site on April 20th
23 2021. A true and correct copy of the website with my logos is attached hereto as
24 **Exhibit C** and incorporated fully herein by this reference.

25 8. One of those supporters was JOSH SCARPUZZI, who was also a
26 survivor, writer, and social media presence with TTI. *See Decl. Scarpuzzi, p. 2.*

27 ///

28 ///

1 9. In February 2019 I gave JENNA BULIS express permission to revamp
2 the #breakingcodesilence campaign and we began to work together to formalize it
3 into a non-profit organization. As a team we created the Facebook pages, Twitter,
4 and Facebook groups that became the hub for the movement. JEN WALKER aka
5 ROBISON, created short videos, original logos, and our website
6 breakingcodesilence.net.

7 10. WALKER was elected the president and CEO of BCS, I became the
8 Chief Operations Officer (COO), MARTHA THOMPSON was the Chief Financial
9 Officer and JENNA BULIS was the Senior Public Relations Coordinator.

10 11. August 2020 #breakingcodesilence was featured in Paris Hilton's
11 documentary This is Paris. It was during this time that I and JENNA BULIS were
12 working with Paris Hilton's producers and pitched #breakingcodesilence to be
13 promoted on her documentary. Paris Hilton's support of #breakingcodesilence
14 brought mass awareness and propelled our grassroots campaign into a formidable
15 force for change.

16 12. September of 2020 I, and five others including JENNA BULIS and
17 JENNIFER WALKER aka ROBISON, filed with the United States Patent and
18 Trademark Office an application to trademark both "BREAKING CODE
19 SILENCE," and "BREAKINGCODESILENCE." The printout in Exhibit A of the
20 Request for Judicial Notice filed herewith is a true and accurate representation of the
21 date the application was filed, trademark names, owners, and usage description that
22 the six of us filed.

23 13. October 7, 2020 a fiscal sponsorship contract was established by myself
24 and JENNIFER WALKER aka ROBISON with the National Youth Rights
25 Association (NYRA) on behalf of the intended 501c3 under the name Breaking Code
26 Silence Project, which allowed us to fundraise and operate as an informal
27 organization while we worked towards building the infrastructure, management and
28 articles of incorporation of the entity. A true and correct copy of the Fiscal

1 Sponsorship Agreement is attached hereto as **Exhibit D** and incorporated fully herein
2 by this reference.

3 14. In January 2021, a grant proposal was submitted to the Hilton
4 Foundation for \$500,000 on behalf of BCS. The BCS Team had previously discussed
5 and decided the direction and plan for how we could provide free tele-health services
6 for survivors, explained this plan in detail to the grant writer and were under the
7 impression that this plan would be what would be proposed to the Hilton Foundation.
8 Communication about the grant was intercepted and limited thereafter to
9 KATHERINE McNAMARA, and VANESSA HUGHES. The BCS Team was left
10 out of the process of applying for this grant and was not allowed to view, discuss or
11 approve the proposal before it was submitted to the Hilton Foundation. Once the grant
12 had been filed and the rest of the BCS Team were able to obtain a copy of the grant
13 proposal, several of us raised some concerns about the proposed project.

14 15. The application submitted was in fact very different from what we had
15 originally proposed during the grant writing process. It included granting the entirety
16 of the funds to VANESSA HUGHES and the University of North Carolina
17 Wilmington. We were also concerned about the disbursement of the grant funds as
18 the terms within the proposal were not exactly clear nor approved by BCS's
19 administrative/ finance management team. When these concerns were addressed
20 directly with VANESSA HUGHES, she stated that BCS would not be responsible
21 for disbursement of the funds and would be required to accept the grant and
22 immediately redirect the entirety of the grant funds into the account of a separate and
23 unrelated non-profit; Vetitation, a non-profit of which VANESSA HUGHES is a
24 board member and Executive Director of Operations. In order to avoid any conflict
25 of interest, we agreed that we would need to maintain a degree of separation between
26 BCS and VANESSA HUGHES. A true and correct copy of the Hilton Foundation
27 Grant Application is attached hereto as **Exhibit E** and incorporated fully herein by
28 this reference.

1 16. On March 9, 2021, one of the joint owners of our trademark,
2 KATHERINE McNAMARA quit BREAKING CODE SILENCE due to a
3 “disagreement in direction” of the organization and privately and publicly announced
4 her resignation. Despite the fact that she had already quit, KATHERINE
5 McNAMARA provided us with an ultimatum on March 10, 2021 that we would
6 allow VANESSA HUGHES to direct BCS. Although we had previously agreed,
7 given the fact that VANESSA HUGHES was the recipient of the grant, that we could
8 not hire VANESSA HUGHES in any capacity. We reiterated that our decision to
9 decline hiring VANESSA HUGHES was a prudent action to ensure that we would
10 be in compliance and could be transparent to our donors and the IRS.

11 17. On March 14, 2021, during a meeting to discuss the election of a new
12 CEO and the incorporation of BREAKING CODE SILENCE as a non-profit
13 organization, KATHERINE McNAMARA exploited unauthorized access to our
14 servers, disabled and revoked access to our emails, google drives, website, social
15 media accounts, and downloaded and deleted sensitive data from our servers. Despite
16 multiple requests to return our property and settle this matter amicably,
17 KATHERINE McNAMARA and VANESSA HUGHES repeatedly refused.

18 18. We were able to recover a few of these accounts by reporting them as
19 stolen to Squarespace and Google Workspace. Through an extensive investigation,
20 we were proven to be the original owners of these accounts and our access was
21 restored. Several accounts have not been recoverable because they were either taken
22 over by KATHERINE McNAMARA or were disabled in a way that neither party has
23 been able to recover.

24 19. KATHERINE McNAMARA neither created nor contributed to the
25 establishment of BCS. She simply came on as a volunteer after her cameo in Paris
26 Hilton’s *This is Paris* documentary in 2020. She was elected into a leadership
27 position thereafter, but had no right to hostile takeover BCS. BCS’ bylaws explicitly
28 established a formal procedure for the removal of any founder and that process was

1 not carried out when the 5 original founders were revoked access to their accounts
2 without cause, warning or due process. In any event, KATHERINE McNAMARA
3 was technically a former volunteer at that date, and had no right to remove anyone
4 from BCS. It is my opinion that these actions were taken deliberately as an act of
5 sabotage of our organization's progress toward filing for 501c3 status and an attempt
6 to divert the Hilton Foundation grant to an entity of which KATHERINE
7 McNAMARA and VANESSA HUGHES had full control.

8 20. Shortly after this incident, KATHERINE McNAMARA submitted a
9 new trademark application for BREAKING CODE SILENCE ACTION NETWORK
10 in her name; this was the name we had considered to name our official non-profit.
11 KATHERINE McNAMARA also filed for name reservations and incorporation
12 under our name BREAKING CODE SILENCE which includes herself as the
13 registered CFO, VANESSA HUGHES as CEO and JENNY MaGILL as secretary.
14 Several subsequent trademarks on behalf of this "New BCS" were filed, falsely
15 claiming that their use of the mark dates back to 2010. One of these new trademarks
16 also claims first use in 2019, on the date that JENNIFER WALKER aka ROBISON
17 created our website breakingcodesilence.net. As well, this trademark claims that we
18 first used our mark in commerce on the same day, which is inaccurate because BCS
19 did not use the mark in commerce until April 20, 2021. Both of these trademarks are
20 erroneous as they claim use when it was impossible for their entity to have done so,
21 as it did not exist. This trademark is a deliberate misrepresentation of ownership as it
22 falsely claims use of the website and commerce accounts that this new entity neither
23 created nor currently have access to.

24 21. On July 8, 2021, I was informed of a public post made by JOSH
25 SCARPUZZI that described his experience with the New BCS, his concerns with
26 their leadership and his reasoning for resigning as a volunteer for the organization.
27 Among his claims was a statement that he felt he was used by this New BCS, and
28 that he was manipulated and coerced into signing the rights to his literary works and

1 his associated IP (website and Facebook page) to the New BCS organization. He said
2 he was uncomfortable with claiming copyright dating back to 2010 because in fact
3 he did not brand his collection of poems Breaking Code Silence until 2018, 4 years
4 after my original campaign was published. *See Decl. Scarpuzzi, p. 1.*

5 22. Due to the nature of this split and the dispute over ownership of the name
6 and organization BREAKING CODE SILENCE, much confusion and controversy
7 has been created with the public as to why a New BCS was created without the
8 original founders. A deliberate smear campaign has been launched by this New BCS
9 in an attempt to discredit the original founders of BCS, to justify these egregious
10 actions and alienate us from our beloved community. I have personally suffered
11 incredible cruelty, slander, stalking, harassment and attacks, not only upon my
12 character, but also the reputation of my group, WWASP Survivors.

13 23. McNAMARA and this New BCS have no rights to take credit for the
14 accomplishments of the original BCS nor claim ownership of our intellectual
15 property. I am still the originator, founder and registered trademark owner of
16 BREAKING CODE SILENCE and BREAKINGCODESILENCE and I reserve all
17 my rights to use the mark to continue to manage the original #breakingcodesilence
18 campaign.

19 I declare this is true and correct under penalty of perjury under the laws of the
20 State of California.

21 **CONTRERAS LAW FIRM**

22
23 Date: August 2, 2021

By:

/s/ CHELSEA PAPCIAK

Chelsea Papciak, Declarant

EXHIBIT A

[Troubled Teen Industry](#)
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The Truth Will Set Them Free! Share Your Story, Make a Difference.

[SUBMIT TESTIMONY](#)


August 19, 2014

13 Comments

#BreakingCodeSilence – The Challenge

WWASPSurvivors, SafeTeenSchools, the SIA Organization (Survivors of Institutional Abuse) and Shut Down Logan River have just launched the #BreakingCodeSilence Challenge, a challenge designed to bring awareness to the issues of institutional child abuse in residential treatment centers and teen behavior modification programs. As we speak, as we live and breathe and enjoy our everyday freedoms, there are thousands [...]

[Continue reading...](#)

Subscribe

Subscribe to our monthly newsletter and follow our social networks to keep updated on WWASPSurvivors.com



Please Donate to WWASPSurvivors

This fund is to provide support, assistance and essential care packages for struggling survivors. Please donate today!

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Report Abuse

THE 3 R'S OF REPORTING CHILD ABUSE


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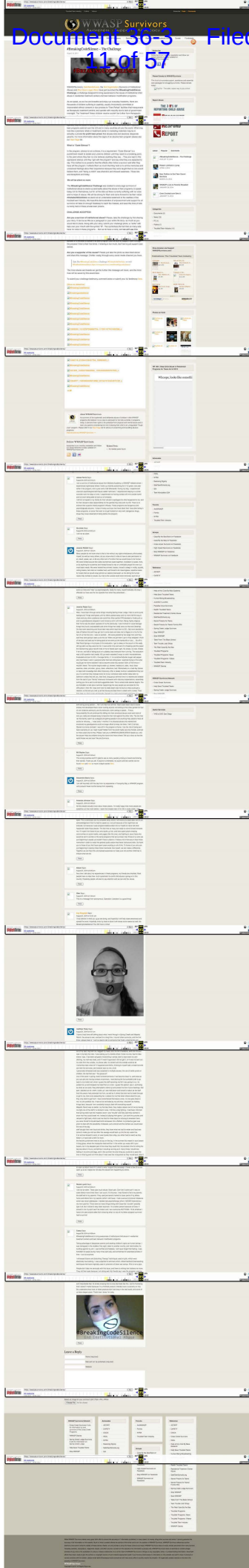

#BreakingCodeSilence – The Challenge
AUGUST 19, 2014



Robert Lichtfield Is Lying
APRIL 5, 2014



New Petition to End Teen Escort





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AWARENESS & ADVOCACY

#breakingcodesilence

BREAKING CODE SILENCE

WWASP Survivors has teamed up with [BreakingCodeSilence.net](#) and [SDLS \(Suburbia's Dirty Little Secret\)](#) to support the #breakingcodesilence campaign to spread awareness of the troubled teen industry and the need for reform.

BREAKING CODE SILENCE

Each year, thousands of teenagers are held against

EVERYONE KNOWS HER. NO ONE KNOWS HER STORY.



their will, in residential treatment centers.

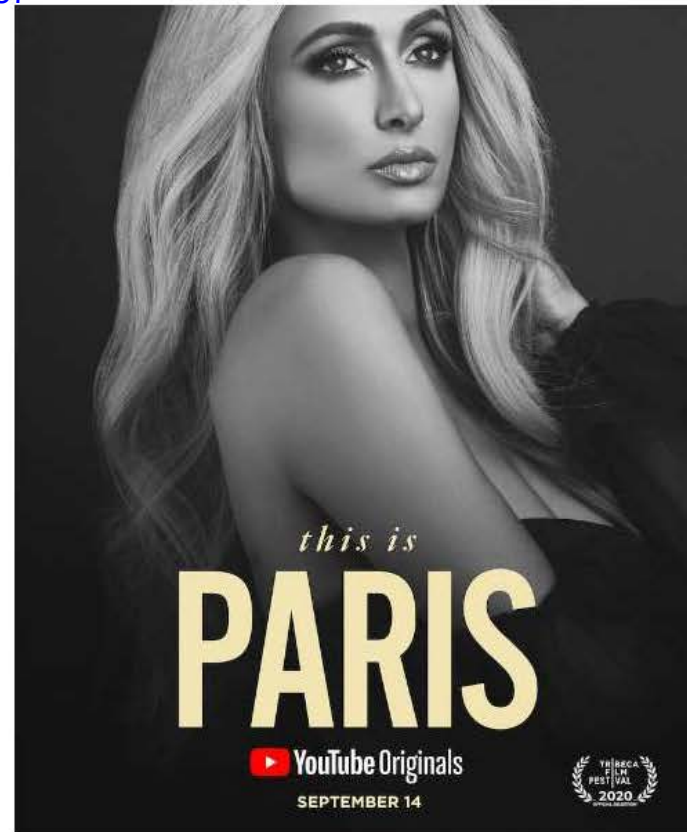
These **for-profit** programs masquerade as therapeutic treatment centers and operate with impunity due to lack of government oversight. Teens can be held for years in facilities that claim to treat mental health and perform behavior modification but do not follow psychological guidelines for treatment.

The “treatment” these children receive is far from therapeutic. Instead, the abuse can leave survivors with lifelong trauma, including PTSD. This systemic abuse goes back decades – many of these programs have been shut down only to have others take their place.

Without government intervention, thousands of teens will continue to suffer abuse. Some have even died or taken their own life to escape the trauma. Countless victims have suffered after returning home from these facilities as a result of the lack of mental health treatment and unresolved trauma.

These programs exist globally and throughout the United States. They advertise themselves as premier rehab and treatment centers but are instead for-profit, privately-run detention centers. These programs deceive desperate parents and abuse the children they claim to help.

Please see our [Red Flags list](#) to learn to recognize abusive programs.



Paris Hilton joins #BreakingCodeSilence to speak candidly about trauma she experienced at Provo Canyon School in her new documentary [This is Paris](#), airing Sept. 14th 2020 on Youtube.

DETAILS

What is Breaking Code Silence

BACKGROUND

In the program, Code Silence is used to punish and demoralize students through forced social isolation. This oppressive silence can last for days, weeks, even months, up to years, if the student does not progress in the levels. This form of treatment causes feelings of frustration, abandonment and separation anxiety (the side effects have proven to result in complex trauma symptoms years after release). By literally taking student's voices away, the program takes away the child's right to express themselves, report abuse and make relationships with other students. Socialization and the developing brain of a teenager are extremely important. In a toxic totalitarian environment, the last thing a child needs is to be silenced. That silence ends today...

We will be silent no more.

#BREAKINGCODESILENCE

#BreakingCodeSilence was created to encourage survivors of institutional abuse to stand up and testify about the abuse in their programs. We speak out today not for ourselves but for all the victims suffering in these troubled programs, with no rights to call for help.

Breaking Code Silence is a testament to the realities of the troubled teen industry – by us, the survivors. We hope this demonstration of empowerment and support for all survivors will gain widespread awareness which will fuel legislative action. In previous years, we have fought to bring forward both statewide and Federal legislative reform. To this day, no such federal regulations exist to reign in the Troubled Teen Industry. We will continue to hold our lawmakers accountable and push for legislation that will end institutional abuse. By telling our stories, we will unify our voice that:

We are Breaking Code Silence.

**This cycle of abuse and corruption needs to stop, we
are not disposable, we demand justice!**

2015 ECONOMIC IMPACT STUDY

Utah's Troubled Teen Industry

LICENSED PROGRAMS

72

KIDS IN PROGRAMS

11k

ANNUAL REVENUE

\$328M

FEDERAL REGULATIONS

0

Data based on a 2015 study of [Economic Impact of Utah's Family Choice Behavioral Healthcare Interventions Industry](#). By Kem C. Gardner Policy Institute, University of Utah. *Note that 18% of programs did NOT report their revenue and this study does NOT include unlicensed religious programs. To date no statistics exist to quantify the Troubled Teen Industry.

SUBMIT TESTIMONY

Are you a survivor of institutional abuse?
**Click [here](#) for more information about
submitting testimony to**

#breakingcodesilence

INSTRUCTIONS

Written Testimony

INSTRUCTIONS

WRITE ABOUT YOUR EXPERIENCE IN A PROGRAM OR FACILITY IN ROUGHLY 800 WORDS.

Include the age you were taken, and the year(s) kept in program.

Write what was done to you and/or what you witnessed done to others. Please write only from your own experience and not of anything you've heard or read which you did not yourself witness or experience.

Have a photo which you are willing to share of you at the approximate age you were when taken. (if you have no photo, a current photo is fine. We can release stories with no photo at all, but having one is more impactful.)

Tag #BreakingCodesilence and end your story with your name, and "I am Breaking Code Silence"

Be aware of and willing to sign a permission and declaration of factual testimony.

#BREAKINGCODESILENCE

SUBMIT TESTIMONY

GET STARTED

SUBMIT TESTIMONY

Video Testimony

#breakingcodesilence

INSTRUCTIONS

- Sit somewhere with minimal background noise and a clean background. (i.e. no laundry pile behind you, etc)
- Use your phone camera or preferred recording device to record video in landscape orientation. (horizontal, not vertical)
- Say you were sent away, and to what type of program. (name program if comfortable)
- Say how old you were.
- As briefly as possible, say what was done to you and/or what you witnessed done to others. (video should be ≈ 2 minutes)
- Say why you are speaking out.
- End your video with the statement, "My name is _____, and I am Breaking Code Silence."

Please send your video file along with any photos you have of yourself as a child (especially from the time you were put in a program or in the program itself) to **breakingcodesilence@gmail.com

NOTHING WILL BE SHARED OR POSTED UNTIL YOU HAVE

SEEN IT AND APPROVED IT.
THANK YOU FOR USING YOUR VOICE!



INSTRUCTIONS

Photo Submissions

INSTRUCTIONS

Here's what you will need:

- 1 White Poster board (or you can do this on a letter sized piece of paper)
- Black Permanent Marker (thicker tipped markers are best)
- Duct Tape (red or silver/gray preferred)
- Scissors
- A Clean, Solid Background (ex: a neutral colored wall or photograph of background)

STEP 1. Using your marker and LARGE, clear handwriting, fill out your poster board like the diagram below.

STEP 2. Cut the duct tape to cover your mouth. This is not fun, we know, but it will be worth it!

STEP 3. Stand in front of the background, and hold your

- Something Which Takes A Good Photo (ex: smartphone, digital camera, or good webcam)
- A Friend, to take the photo (if not you can use the timer feature on your device)

TIPS & TRICKS

The bolder your handwriting is, the better! Once you have your poster board, set yourself up for success. Find your clean background and set up your camera (or friend with camera) to take the photo. If you are doing it yourself, it helps to have the phone/camera/computer set up so you can see the screen and position yourself.

poster board so your hand is not covering the words. Try to keep the poster board as straight as you can.

STEP 4. It's up to you whether you want to leave the tape as it is or if you want to use one hand to act as if you are pulling the tape off, you are literally **#breakingcodesilence!**

STEP 5. Take (or have your friend take!) several photos, so you have options.

STEP 6. Once you have selected your favorite photo, send it to us at breakingcodesilence@gmail.com !

Type or Name of Program

Years Kept in Program

(Ex: 2000-2003)

4 Points describing your experience and/ or negative effects

- Ex: {
- Physically Abused
 - Held in Isolation for 30 days
 - Nightmares
 - Diagnosed with PTSD

#breakingcodesilence



#BREAKINGCODESILENCE

SUBMIT #BCS PHOTO

GET STARTED



Silence.

BREAKING CODE SILENCE

Please like, subscribe and follow our social media:



GET IN TOUCH

NAME

EMAIL ADDRESS

PHONE NUMBER

MESSAGE

SEND

FOR MORE INFORMATION PLEASE VISIT:
BREAKINGCODESILENCE.NET

**carolineburt****Follow****95 likes****carolineburt** I am so super excited about... more

July 12, 2015

EXHIBIT B



Chelsea Filer

October 22, 2014 · 🧑🏻



Edit



6

7 Comments



Like



Comment



Share

View 3 more comments



Jodi Hobbs
YAY!!

Like · 6y



Aaron Seymour
Where is the convention this year?

Like · 6y



Tere Earl
Hollywood 😊

Like · 6y



1



Jodi Hobbs
<http://sia-convention.org>

SIA-
CONVENTION.ORG
SIA Convention
2015



Like · 6y



Write a comment...





Manage Group

**WWASP Survivors**

Private group



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Moderation



Member-Reported Content



Pending Posts



Moderation Alerts



Admin Assist



Group Rules

People



Member Requests



Automatic Member Approvals



Membership Questions

Activity and Insights



Growth



Engagement



Group by WWASP Survivors

WWASP Survivors

Private group · 4.4K members



+ Invite

About

Discussion

Announcements

Rooms

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**Chelsea Filer**

Admin · September 19, 2014 · 🌐



We got the WWASPSurvivors merch on lock!! The shot glasses were just delivered (\$5 each) Just ordered 30 t-shirts (\$20 each) and the [#BreakingCodeSilence](#) wristbands (\$5 each) are on their way!! Please let me know if you would like to purchase, if you are going to the reunion you can just pick them up there, otherwise please make sure your address is correct when you donate through paypal <http://wwaspsurvivors.com/donate/>

If you are going to the reunion and want to buy an "all you can drink" wristband please donate \$25 for that. (please specify so I can get your orders right)

Thanks!!



Martha Thompson, Gloria Wolfe and 19 others · 27 Comments

Like

Comment

Share



Julie Pereira

This is the shit. I'll order after the 1st when my db ex husband has his wages garnished 🤔



1

6y



Lily Speerbrecker

Don't forget to send me my shot glass! 🤔



1

Like · 6y



Chelsea Filer Admin

Lily buy a tshirt too!!



1

Like · 6y



1



Lily Speerbrecker
SENT!

Like · 6y



Bill Boyles
what sizes are the shirts?

6y



2



Kirby MJ
These are amazing! I love love love the t shirt!

Like · 6y



Chelsea Filer [Admin](#)
M, L and XL... but let me know if you need another size
I can get it

Like · 6y



2



Lily Speerbrecker
Large please 🙄

Like · 6y



1



Tanya Sadler
I want a coffee mug that says fuck wwasp.

Like · 6y



3



Julie Pereira
Oh yes!!!! I want what Tanya suggested

6y



3

...



Anna Palco
I need a small! Love the shirt!!

Like · 6y



1



Lydia Hudson
Omg i love these

Like · 6y



2



Chelsea Filer [Admin](#)
Tanya Sadler I was totally going to do those next! But I
was thinking i might use the STAFF THAT SHIT meme...





Like · 6y



Bill Boyles

i need 2x, but i doubt i'm going to get one, money's tight...



6y



Bill Boyles

damn people love the shirts, we really do need to open up a **Troubled Teen Industry Memes** cafe/press, **Chells**



6y



Amanda Boyles

I want one but don't have the money right this sec. Hopefully next week.



6y



Amanda Boyles

I need a medium. 😊



6y



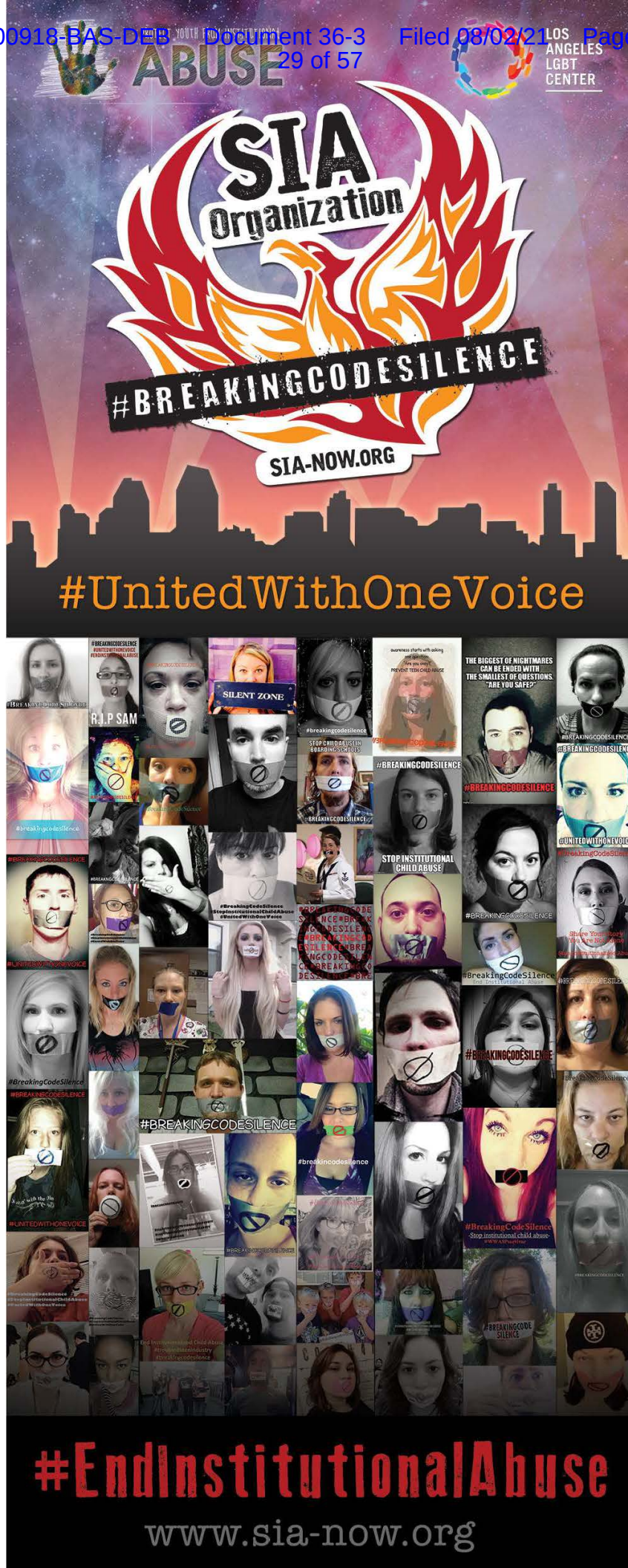
Bill Boyles

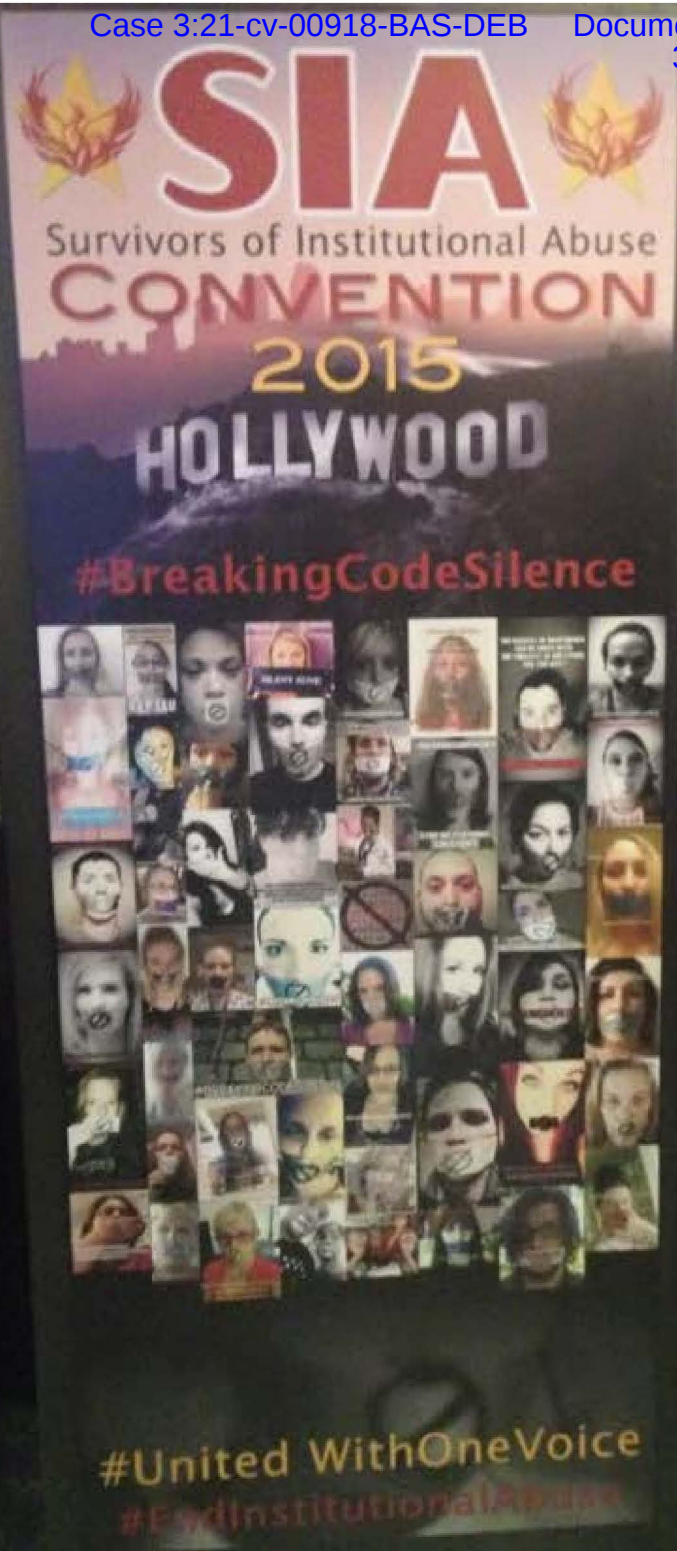
well shit if you're getting one then i'm going to



6y







SIA Organization

March 28, 2015 · 🌐



Rhonda Lundquist and 3 others



Like



Comment



Share



Write a comment...





SIA Organization

October 16, 2015 · 🌐



Like



Comment

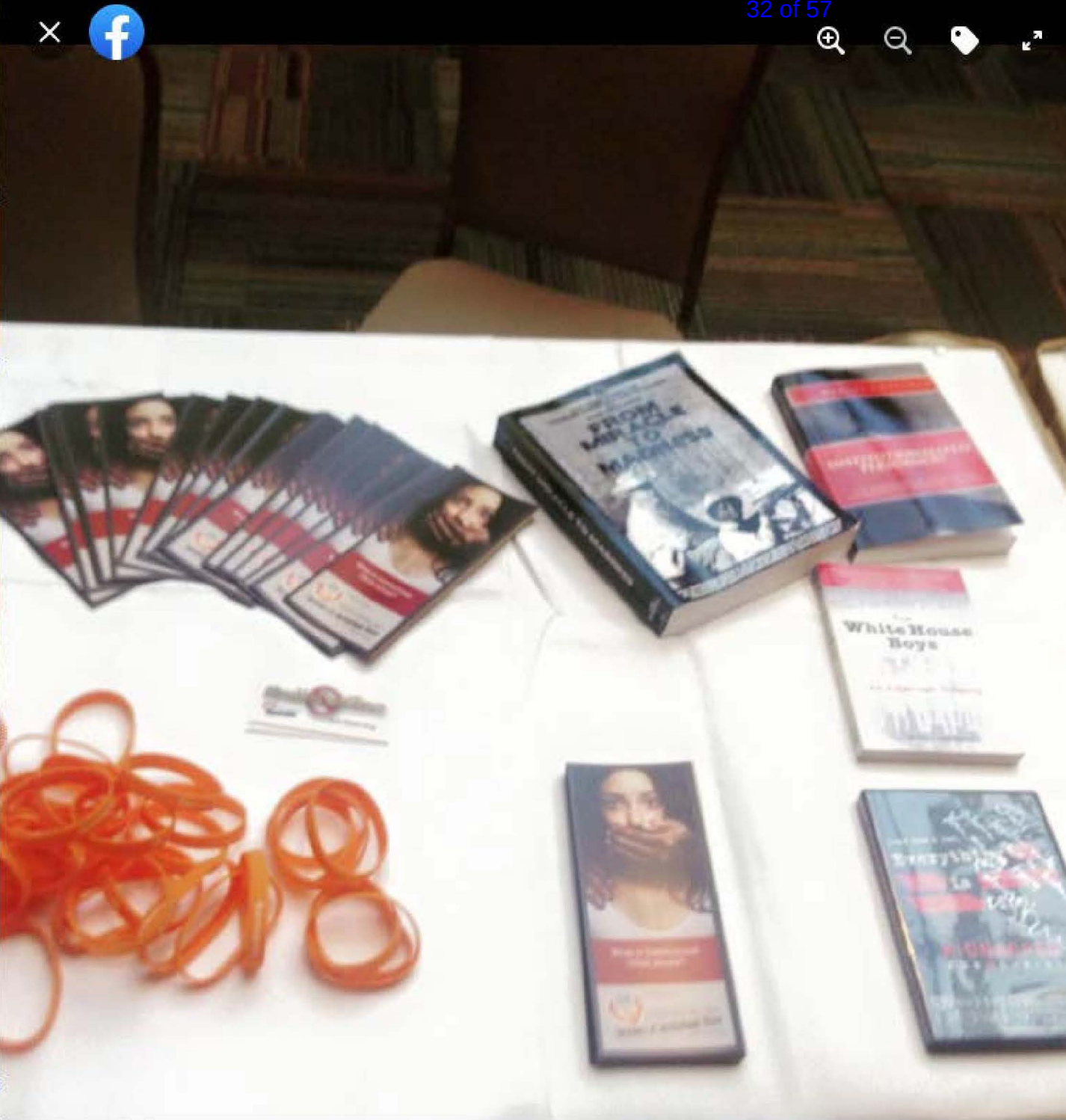


Share



Write a comment...





SIA Organization

October 16, 2015 · 🌐



Like



Comment



Share



Write a comment...



**Los Angeles LGBT Center**

March 27, 2015 · Los Angeles ·

At a press conference this morning, the Center announced legislation introduced by Senator Ricardo Lara to protect youth from institutional abuse.

In just one year, 1,619 employees of youth programs in 33 states were involved in incidents of abuse. Even worse, the SIA Organization reports more than 300 young people have died from abuse in these institutions or have killed themselves.

Please join us in signing the Center's petition to **#SaveKids**. <http://bit.ly/HelpPYIA>

Phot... See More

— at The Village at Ed Gould Plaza - Los Angeles LGBT Center.



Jodi Hobbs and 8 others

8 Shares



Like



Comment



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Write a comment...





Paris Hilton leads rally against Provo Canyon School

By Jessica Miller | Oct. 9, 2020, 2:20 p.m. | Updated: Oct. 12, 2020, 9:48 a.m.



(Rick Egan | The Salt Lake Tribune) Paris Hilton speaks to survivors during a rally and march to continue her calls for the closure of Provo Canyon School, a residential treatment center in Utah she attended when she was a teen Friday, Oct. 9, 2020.



Paris Hilton leads rally against Provo Canyon School

By Jessica Miller | Oct. 9, 2020, 2:20 p.m. | Updated: Oct. 12, 2020, 9:48 a.m.



(Rick Egan | The Salt Lake Tribune) Paris Hilton leads a march to the Provo Canyon School, during a rally calling for the closure of Provo Canyon School, a residential treatment center in Utah she attended when she was a teen, on Friday, Oct. 9, 2020.









EXHIBIT C

Crewneck Sweatshirts

Long Sleeve T-Shirts

Baseball T-Shirts

Kids Apparel

Kids T-Shirts

Kids Hoodie

Kids Long Sleeve T-Shirt

Onesie

Masks

Masks

Home Goods

Wall Art

Notebooks

Mugs

Pillows

Totes

Tapestries

Pins

Cases & Stickers

Phone Cases

Laptop Cases

Stickers

Magnets

Breaking Code Silence T-Shirt

~~\$80~~ \$13 23:13:59



0 Sold [Edit](#) [Copy](#) [Deactivate](#)

Survivor Strong - #breakingcode...

~~\$80~~ \$13 23:13:59

BREAKING CODE SILENCE - Bro...

~~\$80~~ \$13 23:13:59



0 Sold [Edit](#) [Copy](#) [Deactivate](#)

Every Child Deserves to Be Safe ...

~~\$80~~ \$13 23:13:59

Be the hero you needed when yo...

~~\$80~~ \$13 23:13:59



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Be the hero you needed when yo...

~~\$80~~ \$13 23:13:59



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#breakingcodesilence original T-...

~~\$80~~ \$13 23:13:59



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#breakingcodesilence Kids Over ...

~~\$80~~ \$13 23:13:59



2 Sold [Edit](#) [Copy](#) [Deactivate](#)

#breakingcodesilence - Warrior T...

~~\$80~~ \$13 23:13:59



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Breaking Code Silence. T-Shirt

~~\$80~~ \$13 23:13:58



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Breaking Code Silence BOLD T-...

~~\$80~~ \$13 23:13:58

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4.5 ★★★★★
Google
Customer Reviews

i.icon.icon-l2.tp-x-light.touchable.jsQueryCloseModal

EXHIBIT D

FISCAL SPONSORSHIP AGREEMENT

Between

Breaking Code Silence

And the

National Youth Rights Association

This Agreement is made by and between the National Youth Rights Association (NYRA) and Breaking Code Silence. NYRA is a Maryland nonprofit public benefit corporation, qualified as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code (IRC). Breaking Code Silence is a California based organization. Margaret Zheng is the current president of NYRA. Breaking Code Silence is a project of NYRA and has some measure of independence (separate board of directors, separate bylaws).

RECITALS

A. NYRA agrees to serve as the fiscal agent for support of the Project known as Breaking Code Silence (the Project) and to make disbursements of grant funds and donations earmarked for the furtherance of the Projects mission. Margaret Zheng, president of NYRA, is ultimately charged with the authority to manage fiscal sponsor responsibilities.

B. NYRA desires to act as the fiscal sponsor of the Project by receiving assets and incurring liabilities identified with the Project beginning on the effective date and using them to pursue the objectives for which the Project is being established. NYRA's board has determined that these objectives will further the charitable and educational goals of NYRA. Breaking Code Silence desires to manage itself under the sponsorship of NYRA.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement and all terms herein shall apply beginning to October 7, 2020. NYRA assumes the fiscal operation of the Project, which operation shall continue in effect unless and until terminated under Paragraph 5 below.
2. **Project Activities and Sponsorship Policies.** All community programs, public information work, fundraising events, processing and acknowledgment of cash and non-cash revenue items, accounts payable and receivable, negotiation of leases and contracts, disbursements of Project funds (including grants), and other activities planned by the Project shall be the ultimate responsibility of NYRA and shall be conducted in the name of NYRA beginning on the effective date. Unless otherwise agreed, and subject to their consent, all personnel to be compensated for working on the Project shall become at-will employees of NYRA on the effective date and shall be subject to the same personnel policies and benefits as are required by law to apply to all employees of NYRA. Unless otherwise agreed, any tangible or intangible property, including copyrights, obtained or created in connection with the Project shall be the property of NYRA while this Agreement is in effect. Authority to manage the program activities of the Project is delegated to Breaking Code Silence, subject at all times to the ultimate direction and control of the NYRA board of directors. Breaking Code Silence shall abide by the Sponsorship Policies of NYRA set forth on the attached Exhibit 1, which may be amended from time to time with the consent of Breaking Code Silence and which include administrative fees to be paid from the restricted fund described in Paragraphs 3 and 4 below.
3. **Restricted Fund.** Beginning on the effective date, NYRA shall place all gifts, grants, contributions, and other revenues received by NYRA and identified with the Project into a restricted fund to be used for the sole benefit of the Projects mission as that mission may be defined by Breaking Code Silence from time to time with the approval of NYRA. NYRA retains the unilateral right to spend such funds as to accomplish the purposes of the Project as nearly as possible within NYRAs sole judgment, subject to any donor-imposed restrictions, as to purpose, on the charitable use of such assets. The parties agree that all revenue and the fair market value of all property, in the restricted fund be reported as income for NYRA, for both tax purposes and for purposes of NYRAs financial statements.
4. **Restricted Fund Management / Performance of Charitable Purposes.** All of the assets received by NYRA under the terms of this Agreement shall be devoted to the purposes of the Project as long as they remain within the tax-exempt purposes of NYRA. Any attempts by the Project to influence legislation within the meaning of IRC Section 501(c)(3) shall not exceed 10% of the Projects funds, staff time, and activities. NYRA shall not use any portion of the assets to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, to induce or encourage violations of law or public policy, to cause any private inurement or improper private benefit to occur, nor to take any other action inconsistent with IRC Section 501(c) (3).

5. **Termination.** This Agreement shall terminate when the objectives of the Project can no longer reasonably be accomplished by NYRA. If the objectives of the Project can still be accomplished but either Breaking Code Silence or NYRA desires to terminate NYRAs fiscal sponsorship of the Project, the following understandings shall apply. Either NYRA or Breaking Code Silence may terminate this Agreement on 60 days written notice to the other party, so long as another nonprofit corporation which is tax-exempt under IRS Section 501(c) (3), and is not classified as a private foundation under Section 509(a) (a Successor), is willing and able to sponsor the Project and is approved in writing by both parties by the end of the 60-day period. If the parties cannot agree on a Successor to sponsor the Project, Breaking Code Silence shall have an additional 60 days to find a Successor willing and able to sponsor the Project. If a Successor is found, the balance of assets in NYRAs restricted fund for the Project, together with any other assets held or liabilities incurred by NYRA in connection with the Project, shall be transferred to the Successor at the end of the notice period or any extension thereof, subject to the approval of any third parties that may be required. If Breaking Code Silence has formed a new organization qualified to be a Successor as set forth in this Paragraph, such organizations shall be eligible to receive all such assets and liabilities so long as such organization has received a determination letter from the Internal Revenue Service indicating that such qualifications have been met no later than the end of the notice period or any extension thereof. If no Successor is found, NYRA may dispose of the Project assets and liabilities in any manner consistent with applicable tax and charitable trust laws. Either party to this Agreement may terminate this Agreement based upon a material breach of this Agreement by the other party by giving 30 days written notice to the other party.

6. **Miscellaneous.** In the event of any controversy, claim, or dispute between the parties arising out of or related to this Agreement, or the alleged breach thereof, the prevailing party shall, in addition to any other relief, be entitled to recover its reasonable attorneys fees and costs of sustaining its position. Each provision of this Agreement shall be separately enforceable, and the invalidity of one provision shall not affect the validity or enforceability of any other provision. This Agreement shall be interpreted and construed in accordance with the laws of the State of Maryland.

7. **Arbitration.** In the event of any dispute under this Agreement, the parties shall attempt to resolve the matter themselves in an amicable manner. Failing such resolution, any dispute under this Agreement shall be resolved by binding arbitration in Washington, DC in accordance with commercial arbitration rules of the Judicial Arbitration and Mediation Services (JAMS) then in effect, or any other rules mutually agreed to by the parties. Any award or order made in any such arbitration may be entered as a judgment in a court of competent jurisdiction. Any dispute, and the resolution thereof in any manner, shall be and remain confidential information, and all parties shall protect the confidential information from public disclosure using any and all reasonable legal and technical means.

8. **Entire Agreement.** This Agreement constitutes the only agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. All Exhibits hereto are a material part of this Agreement and are incorporated by reference. This Agreement, including any Exhibits hereto, may not be amended or modified except in writing signed by all parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Fiscal Sponsorship Agreement effective on October 7, 2020.

By:  _____

Jennifer Walker
Breaking Code Silence

By:  _____

Margaret Zheng
National Youth Rights Association

Date: 10/7/2020

Date: 7 Oct. 2020

EXHIBIT 1

NYRA will retain the interest accrued on all restricted funds for which it serves as a fiscal sponsor as a partial offset of administrative expenses. NYRA also charges an administrative fee for its fiscal sponsorship services. That fee is a percentage of the total dollar amount NYRA handles on behalf of those projects it sponsors. The percentage varies from 0 to 15 percent depending on the nature of the project and its concordance with the mission of NYRA. The administrative fee charged to Breaking Code Silence is 10 percent.

As part of its fiscal sponsorship services, NYRA will keep detailed financial records, create account statements on a regular basis, process checks for expenses and payroll, deal with tax reporting obligations, administer benefits, and provide other administrative support as needed. As fiscal sponsor, NYRA is ultimately responsible for all Project activities, including fundraising. In practice, the NYRA board and executive team will delegate certain duties to other NYRA staff members and to Breaking Code Silence. NYRA will handle financial records and payroll. Breaking Code Silence will handle direct employee relations, including hiring, firing, and performance reviews, and coordinate fundraising activities. All fundraising activities shall be conducted in the name of NYRA and are subject to the approval of Margaret Zheng, president of NYRA.

Breaking Code Silence understands that NYRA will not authorize any expenditure from the Projects restricted fund if such expenditures would cause the balance in the Projects restricted fund to fall below zero. Exceptions to this rule may be made at the discretion of the NYRA president if and only if the Breaking Code Silence board of directors accepts full responsibility for repayment of any deficit spending in the event that fundraising for the Project is unsuccessful. In any case, Cash-flow loans made by NYRA to the Projects restricted fund shall not exceed \$1,000.

EXHIBIT E

I - Organizational Background

Breaking Code Silence (BCS) is a nonprofit organization and movement organized by a network of hundreds of survivors including Paris Hilton to raise awareness of the problems in the Troubled Teen Industry (TTI) and the need for change in how society responds to children and youth from vulnerable backgrounds and circumstances. In addition to raising awareness, BCS investigates facilities, reports abuse when discovered, develops research to understand the effect of abuse on child abuse survivors, and actively pursues policy change.

To date, 19 million people have viewed Paris Hilton's documentary This is Paris which has significantly increased public awareness of the abuse endured in residential treatment facilities. Since it debuted, Paris has dedicated her platform and resources to ensuring no more children suffer at the hands of systemically abusive institutions. Alongside BCS, she was accepted to RISE Justice Labs, the world's first civil rights accelerator. In 2021, federal legislation aimed to protect youth in congregate care settings will be introduced. Her efforts as a result of the documentary, such as the peaceful gathering she organized in Provo, Utah that hundreds of survivors from around the country attended, and her change.org petition that resulted in 185,000 signatures have been covered in the USA Today, Good Morning America, Salt Lake Tribune, Fox News, and hundreds of other outlets.

Paris and the BCS Team also recognize the grave need for mental health assistance for this community. This proposed pilot project will be led by Breaking Code Silence with key support from the University of North Carolina Wilmington and the Trauma Resiliency Institute. The project will be led by a team of mental health professionals, academics, and community leaders all of whom are survivors of institutional child abuse within the TTI. This team has collectively more than 8 decades of professional experience providing services to survivors of trauma.

III - Targeted Need

The "Troubled Teen Industry" includes an expansive network of residential programs and facilities which claim to treat, reform, or rehabilitate youth who need additional care due to family circumstances, traumatic experiences, disabilities, social problems, medical conditions, or learning differences. States, school districts, county social service providers, tribal authorities, struggling parents, and the federal government rely on these private for-profit institutions to provide residential care for these youth.

More than 120,000 children are placed in institutional care each year. Nearly all belong to one or more vulnerable groups: people with mental or physical difficulties, children involved in juvenile justice, special education, and/or child welfare systems, lesbian/gay/bisexual/ transgender (LGBTQ) identified, or members of a Native American tribe. An additional vulnerability includes those of cultural or racial ethnic background (for example, a third of the children sent to out of state TTI facilities by the State of California in 2019 were Black or Latino though this population comprises only 6% of California's special education students).

Separated from the protective oversight of their families, institutionalized youth are particularly vulnerable to neglect, maltreatment, and/or violence. The Government Accountability Office investigations identified systemic issues within these programs that played a significant role in the deaths of youth, including:

- ❖ Basic human rights violations and inhumane, degrading discipline
- ❖ Inappropriate restraints (physical, mechanical, and chemical) and social isolation rooms

- ❖ Forcing sedatives or psychiatric medication without psychiatric evaluation
- ❖ Denial of proper nutrients, outdoor recreation, and critical medical care
- ❖ Substandard or restricted education
- ❖ Conversion and aversion therapy
- ❖ Severe restrictions of communication and access to parents, lawyers, and advocates
- ❖ Restricted peer to peer relationships
- ❖ Sexual assault, harassment, grooming by staff and peers
- ❖ Financial opportunism and deceptive marketing

Minimal and poor regulation, lack of consistent policies, inconsistent oversight, and an overreliance on profit-driven mental health companies have all contributed to an environment where youth are systematically abused in the very institutions that purport to care for them.

Adult survivors of institutional child abuse have remarkably poor outcomes. These negative impacts are numerous, interconnected, and pervasive. They may be diagnosed with post-traumatic stress disorder, addiction, and other mental health problems. Survivors are more likely to both commit crimes and be crime victims as adults. Death by suicide, murder, and overdose for this population are well above the national norms. As adults, survivors are more likely to have physical health problems due to the complex trauma endured. The educational and economic trajectories of survivors are also impacted. In addition, familial support is often not available for survivors.

Peer Education and Support

As a result of traumatic experiences in the context of a mental health program, TTI alumni are often reluctant to seek psychosocial assistance from traditional mental health programs as they are perceived as untrustworthy or threatening. Therefore, implementing survivor-led opportunities circumvents the need to establish clinical rapport. During the first year of this pilot project, 50 survivors will be recruited and vetted through a comprehensive assessment and interview process to be trained as peer educators using the Community Resilience Model (CRM). CRM is an established peer education training model widely used by community leaders and paraprofessionals to assist community members in coping with trauma and crisis. Peer educators will provide education and psychosocial support to cope with past trauma and current crises to a minimum of 500-1,000 survivors each year. Utilizing an evidence-based social support model (eg. Alcoholics Anonymous), daily virtual 75-minute sessions will be available to those of all ages within the international survivor community. Through a secure online tool, data will be collected and additional information including an emergency contact number and their location will be required when signing up.

The purpose of this pilot program is to train and empower survivor leaders to teach survivors self-applied interventions to decrease trauma symptoms and increase functioning as they navigate their career, relationships, and more. Peer educators will:

- ❖ Educate survivors about trauma and identify its neurophysiological impact on the mind and body
- ❖ Teach concrete tools and skills to re-regulate the nervous system in response to emotional cues
- ❖ Provide opportunities for social support and relational engagement between participants

An additional 15 survivors will be trained as peer support specialists using a curriculum specifically designed to focus on the needs of institutional child abuse survivors. Peer support specialists have been incorporated into the mental health recovery systems of care since the 1970s and have a strong evidence base for effective treatment delivery with hard-to-reach populations, including former foster youth, veterans, refugees, sexual assault and trafficking survivors, and people experiencing homelessness. Each specialist will serve an estimated 80 individuals annually over two years, assisting peers with navigating

the adult mental health system, accessing needed services from local agencies, obtaining documents and records, securing housing and employment, transportation back to their home state after aging out of institutional care, transition to adulthood planning, life skills coaching, and access to emergency assistance.

Peer support specialists and peer educators will serve as volunteers, for a minimum of 8 hours per month, for two years. They will receive biweekly supervision from a trained and licensed mental health practitioner. Additionally, a licensed social worker and social work staff will be on hand to support and encourage the specialists and educators and to provide direct assistance with complex cases and situations.

Education of Mental Health Professionals

A series of introductory, beginning, intermediate, and advanced training courses will be created to educate mental health and substance abuse professionals, medical providers, and child/youth/community service providers on the needs, experiences, and common challenges reported by the TTI survivor population. This type of training does not currently exist. Despite standard curricula mentioning that institutionalized abuse populations exist, public health, counseling, nursing, recreational therapy, occupational therapy, and psychology students receive no instruction regarding this population. Students who complete an MSW in clinical social work practice receive less than 15 minutes of instruction during their two-year program on the problem of abuse in institutional care and no instruction on how to respond to the trauma this causes.

Participants will be guided in empowering methods for engaging with this population in a way that promotes dignity and self-determination of survivors. Topics will include ethical concerns, trauma-informed care, the physical and psychological sequela of torture/institutional abuse common among TTI survivors, treatment protocols, and strategies for empowering psychological interventions with survivors. Key concepts will be introduced in discipline specific language which builds connections to established research and existing professional knowledge. Opportunities for continuing education units and certification of the training will be provided to encourage participation from a wide variety of professionals. We plan to engage professionals through word of mouth, presentations and panels at psychotherapy conferences, and through publications.

Professionals who complete a set number of training hours will be invited to apply to be “endorsed” by the project. This process will include a panel interview, background check, agreement to adhere to ethical standards, and ongoing contact to assure that those vetted are committed to providing high quality support services to survivors. A referral list of endorsed professionals will be provided online and used by our peer support specialists and peer educators when referring survivors for specialized or intensive care.

Trauma Intervention Retreat

Lastly, a program incorporating cutting edge trauma interventions will be organized for 40 survivors to take place in person over a six-day retreat when COVID restrictions are lifted. As a pilot retreat, the program will incorporate neurophysiologically-based practices demonstrated through research to reduce trauma symptoms and improve daily and social functioning and increase life-satisfaction including psychosensory therapy and neural therapy. CRM Peer Educators will facilitate and assist education groups, therapeutic recreational opportunities (e.g., equine facilitated therapy, mediation, yoga, etc.), and other psychosocial components to promote healing, relational connection, and personal empowerment. Retreat participants will be intentionally recruited so that they reflect the diversity of those who experience institutional abuse including foster care alumni, individuals who are impacted by the juvenile

justice and special education systems, people who identify as LGBTQ, and those who were placed in institutional care through Native American tribal authorities.

Research

The project as a whole will be evaluated during and after the realization of project outputs to assure that the aim of the project was met, and that key metrics were achieved. Data collection for CRM participants will assess an increase or decrease in functioning, mental health symptoms (PTSD, mood, anxiety, depression), utilization of public resources, contribution to society, utilization of medical care, interactions with police or social services, utilization of food stamps, and more.

During the program assessment period, we will also identify the reliability of the retreat model to see if it drastically reduced symptoms and increased functioning. This evaluation process will serve to build on and expand our professional understanding of trauma interventions with this particular community, contributing to the growing body of published works on evidence-based interventions for trauma survivors.

Conclusion

With support from The Conrad N. Hilton Foundation, Paris Hilton and Breaking Code Silence can (1) implement a data-driven pilot program which will provide direct services including peer-led psychosocial support, case management, trauma education, and trauma resolution techniques to establish an evidenced-based recovery model for survivors of institutional child abuse, and (2) increase access to high quality professional psychological support by trained therapists. With approximately 120,000 youth currently in congregate care settings and thousands of survivors facing insurmountable amounts of challenges including a disproportionately high number of overdoses and suicides due to the current lack of care, providing services to impact this vulnerable community is of vital importance and will enhance this movement substantially.

Annex A - Timeline over Three Years

First 6 months	Following 2 years	Final 6 months
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Program Development, Screening & Training of CRM Peer Specialists	CRM Daily sessions & Retreat	Data Review & Research Evaluation
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Annex B - Proposed Budget over Three Years

Cost	Project Component	Cost
Key Personnel Salaries and Fringe (2 part time co-directors)	Peer education and support - 70%; Education - 8%; Administration - 2%; Retreat - 20%	\$64,406
Assistant #1 - Salary and Fringe	Peer education and support (50%); Education of mental health professionals (50%)	\$47,914
Assistant #2 - Salary and Fringe	Trauma intervention retreat	\$14,700
Assistant #3 - Salary and Fringe	Peer education and support (60%); Trauma intervention retreat (30%); Project coordination (10%)	\$14,700
Consultants and short-term professional staff	Peer education and support	\$43,400
Consultants and short-term professional staff	Education of mental health professionals	\$18,000
Survivor emergency fund	Peer education and support	\$20,000
Retreat programming costs	Trauma intervention retreat	\$128,700
Retreat participant travel	Trauma intervention retreat	\$32,400
CRM training and certification	Peer education and support	\$74,836
Supplies and incidentals	Peer education and support	\$3,000
Indirects		\$37,821
	TOTAL:	\$499,877

*The UNCW College of Health and Human Services will physically house and fund the research element of this project and provide institutional guidance and consultation. IRB approval has already been received and access to statisticians and research and graduate assistants to compile editors for publications is available.

Annex C - Biographies of Project LeadersProject Co-Directors

Athena Kolbe, PhD, LCSW - Assistant Professor, University of North Carolina Wilmington

Raised in California, Kolbe spent years in the Los Angeles foster care system before being sent to a TTI facility in Utah at the age of 15. After aging out of foster care she spent several years living on the streets before attending community college and eventually earning her bachelor's degree in from Skidmore College (New York). Kolbe worked in public radio and lived for several years in Haiti, where she helped establish a children's radio station. After a decade in journalism, Kolbe returned to graduate school, earning degrees in Theology, Social Work, and Political Science.

She is a seasoned clinical therapist with extensive training in the treatment of complex trauma with adolescents and adults from vulnerable populations including foster care alumni, youth and adults involved in the mental health and criminal justice systems, LGBTQ youth, and people experiencing homelessness. In 2008, Kolbe returned to graduate school at the University of Michigan Ann Arbor, where she earned PhDs in Social Work and Political Science. In addition to teaching and mentoring new clinical therapists in the social work program, she conducts research in the US and abroad focusing on post-traumatic stress disorder, the mental health impacts of natural and man-made disasters, and the needs and experiences of transition aged youth.

Vanessa Hughes PhDc, MA, MFT, MAICS, MAT, SEP is a survivor of a WWASP program. After serving as a firefighter in the United States Marine Corps, she went on to obtain Graduate degrees in Marriage and Family Therapy, Clinical Psychology, Theology, and Intercultural Studies. She will obtain her doctorate in clinical psychology in July.

Vanessa is a trauma expert with extensive experience working with individuals with severe PTSD. She provides training for fellow therapists who work with trauma and teaches in a graduate therapy program as an adjunct professor.

Vanessa developed a body-based treatment approach for Military Sexual Trauma which has been researched and implemented in several treatment programs and is published in a textbook for treating Military Sexual Trauma. She has been invited to help create various wellness and treatment programs, research studies, and wellness retreats for traumatized individuals. She serves as the Executive Director of Organizational Development at Vetitation, a fully funded wellness retreat program for Veterans with PTSD. In 2015, she was recognized as Woman of the Year by Senator Carol Liu for her trauma-informed work in the community.

Leadership Team Members

Jen Robison is a children's rights advocate, raised in the Los Angeles area and now residing in Southern Oregon. As a survivor of institutional child abuse during her time at Provo Canyon School (Utah) from 2003-2005, she has been a clear and outspoken voice for the rights and safety of children held in residential treatment programs since 2008.

Jen has been a guiding force in the development of the #BreakingCodeSilence movement, helping to brand its identity, create calls to action, and create the platform for survivors to make their stories public in order to spread awareness of the abuses within the "troubled teen" industry. In 2020 she was elected by her team members to serve as the Director/CEO of Breaking Code Silence, where she oversees the activist network and current projects relating to public awareness, education, research, survivor support, active program investigation, and legislative reform of the industry.

Notes for Hilton Foundation (not a part of application)

- Paris's Change.org petition (185k signatures)
- 60 Million views of #breakingcodesilence across media channels
- Disability Law Center Utah announces they are investigating all facilities in Utah
- Tens of parents have pulled youth out of abusive programs since September
- Hundreds of survivors gathered with Paris in Provo, Utah for a silent march in October 2020
- The Salt Lake Tribune's fundraiser to release state reports of abuse and neglect at residential treatment facilities in Utah hit its goal in 12 hours with Paris support
- All proceeds of Paris single "I Blame You" donated to Breaking Code Silence
- Official partnership with American Bar Association (ABA) to host monthly panels on the industry and activate lawyers on behalf of the movement
- Paris Hilton publishes <https://www.survivorsbreakingsilence.com/> to amplify survivor voices
- California decertified all out of state residential care placements for child welfare and juvenile justice youth and Missouri proposes legislation to regulate unlicensed reform schools
- Tons of coverage on the industry: New York Post, ABC, Vanity Fair, USA Today and more.

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Fax: (619) 342-3166

Attorneys for Defendants,
**MARTHA THOMPSON, JENNA
BULIS, CHELSEA PAPCIAK, and
BREAKINGCODESILENCE, INC.**

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California Public Benefit
Corporation,

Plaintiff,

vs.

CHELSEA PAPCIAK aka FILER, an
individual, JENNIFER WALKER, an
individual, JENNA BULIS, an
individual, MARTHA THOMPSON,
an individual, and
BREAKINGCODESILENCE, INC.,
a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**DECLARATION OF JOSH
SCARPUZZI IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS PURSUANT TO FRCP
12(b)(6) AND MOTION TO STRIKE
PURSUANT TO FRCP 12(f)**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

///

1 I, JOSH SCARPUZZI, hereby declares the following:

2 1. I have personal knowledge of the matters I have declared herein, and If
3 called to testify I would do so in the same manner.

4 2. I am a survivor of abuse by teen programs and boarding schools, and as
5 a survivor I have a long history of involvement with the survivor community. I do
6 writing, blogging, social media posting, and speaking engagements having to do with
7 the survivor community, but I did it all as TTI, and never as BREAKING CODE
8 SILENCE, prior to December 22, 2018.

9 3. The material attached herein is a true and correct copy of a post that I
10 personally drafted and uploaded to Facebook on July 8, 2021, and the statements
11 made in that post are true, correct, and accurate.

12 I declare this is true and correct under penalty of perjury under the laws of the
13 State of California.

14 **CONTRERAS LAW FIRM**

15
16 Date: July 27, 2021

17 By: Josh Scarpuzzi (Jul 27, 2021 21:06 EDT)

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28
Josh Scarpuzzi, Declarant

EXHIBIT A

om/groups/653206225177431



TTI Advocates

+ Invite



Josh Scarpuzzi

1h · 🌐

Statement of Fact
July 08, 2021

Hello BCS Community, Lawyers, and Leadership,

In 2007-2008 while at Spring Creek I wrote a collection of poetry that was titled "The thoughts of a caged bird." This collection was never intended to be a part of my book and was written independently.

On October 12th, 2010 I spoke at a Mathew Sheapherd Memorial event in San Diego California. At this event I spoke about my struggle with suicide, and my time at Spring Creek. At this point in time I had began writing my book with no title, it was meant to be a journal at first.

From 2010-2018 I had worked at a number of small events that talked about troubled teen issues and suicide awareness but always acted on behalf of myself and was not promoting, engaging, or in any way mentioning the BCS mark. I continued working on my book independently.

Around 2017 I settled on the title Breaking Code Silence for my book and began emailing editors and publishers. Book titles are not able to be trademarked and as such I never trademarked my book, only a general copyright that applies to any intellectual written property.

When I was first approached by Vanessa Hughes with the new BCS organization, I was told by them that they believed I had the exclusive rights to the BCS mark and they wanted to secure that from me. They implied that what their trademark lawyer told them was that any work I did around the TTI(speaking about suicide, my poetry, my book) was entirely connected and legally constituted first use rights under trademark law. I have now learned that this is false. I had questioned

and what they post.



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3206225177431/user/100002575406930/?__cft__[0]=AZUujZELkvKeD5I8fLqKPfQHwAEUht56IXiulyTdbN7qHi3IDBZDH-Z9CsHJjalvGmrzu_R-5fAQqOIA5bDHqIByFid1ewmtEOxbSYJhk0pEVud5Un-EWQancYfL-odPbtH



TTI Advocates

+ Invite



Joshua Scarpuzzi



 Lily Speerbrecker, Topher Miller and 10 others 3 Comments



 Like



 Comment

All Comments ▼



Josh Scarpuzzi 

Just to clarify some confusion regarding timeline, and



 Visible

Anyone can find this group.



 General

Rooms



Get the Group Together on Video Chat

Create a room to instantly connect to other members on video chat.

Create Room

Recent media



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Attorneys for Defendant,
**MARTHA THOMPSON, JENNA
BULIS, CHELSEA FILER, and
BREAKINGCODESILENCE, INC.**

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
California Public Benefit
Corporation,

Plaintiff,

vs.

CHELSEA PAPCIAK aka FILER, an
individual, JENNIFER WALKER, an
individual, JENNA BULIS, an
individual, MARTHA THOMPSON,
an individual, and
BREAKINGCODESILENCE, INC.,
a Florida corporation

Defendants.

Case No.: 21-cv-0918-BAS (DEB)

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANT,
MARTHA THOMPSON'S, MOTION
TO DISMISS AND STRIKE
PURSUANT TO FRCP 12(b)(6), (f)**

Date: September 13, 2021
Dept.: 4B
Judge: Hon. Cynthia A. Bashant

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

///

1 Defendant, MARTHA THOMPSON, by her undersigned attorney, moves
2 and requests that the court take judicial notice, pursuant to Fed. Rules of Evidence,
3 Rule 201, of the following public records:

4 **EXHIBIT A:** United States Patent and Trade Office's TESS registry entries
5 for BREAKINGCODESILENCE and BREAKING CODE SILENCE on
6 September 3, 2020, September 24, 2020, May 5, 2021, and May 6, 2021. A true
7 and correct copy of the TESS registry entries are attached hereto as Exhibit A and
8 incorporated fully herein to this request by this reference.

9 **EXHIBIT B:** Articles of Incorporation and Statement of Information filed
10 and maintained by the California Secretary of State Business Portal for
11 BREAKING CODE SILENCE, filed on March 22, 2021 and May 1, 2021
12 respectively. A true and correct copy of the Articles of Incorporation and
13 Statement of Information is attached hereto as Exhibit B and incorporated fully
14 into this request by this reference.

15 **EXHIBIT C:** Facebook post of JOSHUA SCARPUZZI, July 8, 2021. A
16 true and correct copy of the post is attached hereto as Exhibit C and incorporated
17 fully into this request by this reference.

18 Exhibits A and B are public records, and are therefore the proper subject for
19 judicial notice. *Fed. R. Evid. 201(b)(2)*; Mackey v. JPMorgan Chase Bank, N.A.,
20 831 Fed.Appx. 349, 351 (9th Cir. 2020).

21
22
23
24 **CONTRERAS LAW FIRM**

25 Date: August 2, 2021

26 By:

/s/ ANDREW R. STILWELL

27 Andrew Stilwell, Esq.

28 Attorneys for MARTHA THOMPSON

EXHIBIT A



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BREAKING CODE SILENCE

Word Mark BREAKING CODE SILENCE

Goods and Services IC 035. US 100 101 102. G & S: Providing services aimed at aimed at preventing institutional child abuse and empowering adult survivors to engage in positive self-advocacy; services to promote the interests of troubled teens by means of public advocacy. FIRST USE: 20191211. FIRST USE IN COMMERCE: 20191211

Standard Characters
Claimed

Mark Drawing (4) STANDARD CHARACTER MARK
Code

Serial Number 90692440

Filing Date May 5, 2021

Current Basis 1A

Original 1A

**Filing
Basis**

Owner (APPLICANT) Breaking Code Silence, Inc. CORPORATION CALIFORNIA 272 N.
Mar Vista Avenue Pasadena CALIFORNIA 91006

**Attorney
of Record** Lisel M. Ferguson

**Type of
Mark** SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

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BREAKING CODE SILENCE

Word Mark BREAKING CODE SILENCE

Goods and Services IC 041. US 100 101 107. G & S: On-line articles, stories, blogs and speaking engagements aimed at preventing institutional child abuse and empowering adult survivors to engage in positive self-advocacy. FIRST USE: 20101018. FIRST USE IN COMMERCE: 20101018

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 90693777

Filing Date May 6, 2021

Current Basis 1A

Original 1A

**Filing
Basis**

Owner (APPLICANT) Breaking Code Silence, Inc. CORPORATION CALIFORNIA 272 N.
Mar Vista Avenue Pasadena CALIFORNIA 91006

**Attorney
of Record** Lisel M. Ferguson

**Type of
Mark** SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

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BreakingCodeSilence

Word Mark BREAKINGCODESILENCE

Goods and Services IC 041. US 100 101 107. G & S: Activism and advocacy group of troubled teen program survivors - We are going to be providing education on boarding schools and teen programs. FIRST USE: 20130312. FIRST USE IN COMMERCE: 20190101

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 90157154

Filing Date September 3, 2020

Current Basis 1B

Original 1B

**Filing
Basis**

Owner

(APPLICANT) Robison, Jen INDIVIDUAL UNITED STATES 272 N Mar Vista Ave
Pasadena CALIFORNIA 91106

(APPLICANT) McNamara, Katherine INDIVIDUAL UNITED STATES 272 N Mar Vista
Ave Pasadena CALIFORNIA 91106

(APPLICANT) Bulis, Jenna INDIVIDUAL UNITED STATES 272 N Mar Vista Ave
Pasadena CALIFORNIA 91106

(APPLICANT) Papciak, Chelsea INDIVIDUAL UNITED STATES 272 N Mar Vista Ave
Pasadena CALIFORNIA 91106

(APPLICANT) Moorman, Rebecca INDIVIDUAL UNITED STATES 272 N Mar Vista
Ave Pasadena CALIFORNIA 91106

(APPLICANT) Carter, Emily INDIVIDUAL UNITED STATES 272 N Mar Vista Ave
Pasadena CALIFORNIA 91106

**Type of
Mark**

SERVICE MARK

Register

PRINCIPAL

**Live/Dead
Indicator**

LIVE

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Breaking Code Silence

Word Mark	BREAKING CODE SILENCE
Goods and Services	IC 035. US 100 101 102. G & S: Promoting the interests of troubled teens by means of public advocacy. FIRST USE: 20130401. FIRST USE IN COMMERCE: 20190601
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	90208204
Filing Date	September 24, 2020
Current Basis	1A;1B
Original Filing Basis	1A;1B
Owner	(APPLICANT) McNamara, Katherine R INDIVIDUAL UNITED STATES 272 N Mar

Vista Ave Pasadena CALIFORNIA 91106

(APPLICANT) Robison, Jennifer INDIVIDUAL UNITED STATES 272 N Mar Vista Ave Pasadena CALIFORNIA 91106

(APPLICANT) Bulis, Jenna INDIVIDUAL UNITED STATES 272 N Mar Vista Ave Pasadena CALIFORNIA 91106

(APPLICANT) Carter, Emily INDIVIDUAL UNITED STATES 272 N Mar Vista Ave Pasadena CALIFORNIA 91106

(APPLICANT) Moorman, Rebecca INDIVIDUAL UNITED STATES 272 N Mar Vista Ave Pasadena CALIFORNIA 91106

(APPLICANT) Papciak, Chelsea INDIVIDUAL UNITED STATES 272 N Mar Vista Ave Pasadena CALIFORNIA 91106

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

| .HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY

EXHIBIT B

FILEDSecretary of State
State of California

4721336

Filing Number

03/22/2021

Filing Date

ARTICLES OF INCORPORATION**OF**

Breaking Code Silence

I.

The name of the corporation shall be Breaking Code Silence

II.

The place in this state where the principal office of the Corporation is to be located is
272 N Mar Vista Ave, Pasadena, California 91106.

III.

Said corporation is organized exclusively for charitable purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

This corporation is a nonprofit PUBLIC BENEFIT CORPORATION and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes.

The specific purpose of this corporation is to
educate, advocate and support research endeavors for youth and survivors of residential facilities

IV.

The name and address in the State of California of this corporation's initial agent for service of process is:

LegalZoom.com, Inc.

V.

4721336

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation except from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of future federal tax code, or (b) by a corporation,(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

VI.

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

VI.

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation on the date below.

Date: 03/22/2021

LegalZoom.com, Inc., Incorporator



By: Cheyenne Moseley, Assistant Secretary



California Secretary of State Electronic Filing



Corporation - Statement of Information

Entity Name: BREAKING CODE SILENCE

Entity (File) Number: C4721336
File Date: 05/01/2021
Entity Type: Corporation
Jurisdiction: CALIFORNIA
Document ID: GS96633

Detailed Filing Information

1. Entity Name: BREAKING CODE SILENCE
2. Business Addresses:
 - a. Street Address of Principal Office in California:

272 N Mar Vista Ave
Pasadena, California 91106
United States of America
 - b. Mailing Address:

P.O. Box 91896
Pasadena, California 91109
United States of America
3. Officers:
 - a. Chief Executive Officer:

Vanessa Hughes
P.O. Box 91896
Pasadena, California 91109
United States of America
 - b. Secretary:

Jenny Magill
P.O. Box 91896
Pasadena, California 91109
United States of America

Document ID: GS96633



California Secretary of State Electronic Filing

Officers (Cont'd):

c. Chief Financial Officer:

Katherine McNamara
P.O. Box 91896
Pasadena, California 91109
United States of America

4. Agent for Service of Process:

Katherine McNamara
272 N Mar Vista Ave
Pasadena, California 91106
United States of America

By signing this document, I certify that the information is true and correct and that I am authorized by California law to sign.

Electronic Signature: Katherine McNamara

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EXHIBIT C

EXHIBIT A

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Jenna



TTI Advocates

+ Invite



Josh Scarpuzzi



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Statement of Fact
July 08, 2021

Hello BCS Community, Lawyers, and Leadership,

In 2007-2008 while at Spring Creek I wrote a collection of poetry that was titled "The thoughts of a caged bird." This collection was never intended to be a part of my book and was written independently.

On October 12th, 2010 I spoke at a Mathew Sheapherd Memorial event in San Diego California. At this event I spoke about my struggle with suicide, and my time at Spring Creek. At this point in time I had began writing my book with no title, it was meant to be a journal at first.

From 2010-2018 I had worked at a number of small events that talked about troubled teen issues and suicide awareness but always acted on behalf of myself and was not promoting, engaging, or in any way mentioning the BCS mark. I continued working on my book independently.

Around 2017 I settled on the title Breaking Code Silence for my book and began emailing editors and publishers. Book titles are not able to be trademarked and as such I never trademarked my book, only a general copyright that applies to any intellectual written property.

When I was first approached by Vanessa Hughes with the new BCS organization, I was told by them that they believed I had the exclusive rights to the BCS mark and they wanted to secure that from me. They implied that what their trademark lawyer told them was that any work I did around the TTI(speaking about suicide, my poetry, my book) was entirely connected and legally constituted first use rights under trademark law. I have now learned that this is false. I had questioned

and what they post.

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73°F S

EXHIBIT A

om/groups/653206225177431



TTI Advocates

+ Invite



organization, I was told by them that they believed I had the exclusive rights to the BCS mark and they wanted to secure that from me. They implied that what their trademark lawyer told them was that any work I did around the TTI(speaking about suicide, my poetry, my book) was entirely connected and legally constituted first use rights under trademark law. I have now learned that this is false. I had questioned this at the time and was reassured by both Vanessa and Katie on multiple occasions that my concerns over the validity and legality of this were already cleared by the lawyers. Despite my concern they continued to ensure me that anything I did in the past regarding TTI counted as part of my "BCS advocacy."

For the last few months I have been defending myself as the sole owner and founder of BCS because that's what I was told and ensured by those in power at BCS was legally my right. It was never my intention to lie or deceive anyone in the process, I was operating under the information hat was given to me with the intention that I was helping kids.

At this time I am taking a step back from TTI advocacy as I never asked to brought into the middle of this division and used as a pawn. Please respect my privacy and stop reaching out. To those who are calling and harassing me, sending me harassing messages online and via text, I'm asking you survivor to survivor, please stop.

Joshua Scarpuzzi



Lily Speerbrecker, Topher Miller and 10 others 3 Comments



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Josh Scarpuzzi



Just to clarify some confusion regarding timeline and

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